

## **RECOMMENDATION 13 - *Transfer FOIA Officer Responsibility***

**It is recommended that the Freedom of Information Act (FOIA) Officer function be transferred to the Information Management Directorate (IM).**

### **SIGNIFICANT BACKGROUND**

The Freedom of Information Act is found in 5 U.S.C. Section 552, and is implemented throughout the Army by AR 25-55. In most field offices, an attorney, and often the District Counsel, is appointed the Freedom of Information Act Officer. It should be noted, however, that in the Ohio River Division and its Districts, the FOIA Officer is in IM.

The regulation requires that the Commander, at least at the MACOM level, appoint an individual with FOIA responsibilities. This requirement has, at least, been informally delegated to both the Division and District levels, and the person so designated is referred to as the FOIA Officer. This person is separate from the Initial Denial Authority (discussed in Recommendation 1) and has different responsibilities. Most of the responsibilities of the FOIA Officer are managerial and clerical, consisting of receiving requests, identifying, gathering, and reproducing documents, monitoring progress to insure compliance with the time frames, recording costs, coordinating with other internal and external offices, and reporting. Legal involvement is necessary when documents are considered to be exempt, and Counsel should work closely with the FOIA office to ensure the law and regulations are consistently and appropriately applied.

### **RATIONALE FOR CHANGE**

A summary of pertinent information for the past three years is:

Year	<u>1991</u>	<u>1992</u>	<u>1993</u>
Total No. of FOIA Requests	5101	5341	5883
No. of No-Document Denials	199	208	294
No. of Partial/Full Denials	144	186	187
Total Personnel Costs	\$1,409,122	1,580,115	1,851,497

As can be seen from the above data, less than 10% of the requests resulted in denials. Most of the requests required little, if any, legal work. Most of the effort was presumably spent in identifying and releasing the requested documents.

Transferring the FOIA Officer function from the Office of Counsel to the Information Management Directorate would transfer nonlegal effort to the office more properly established to handle such work, and is consistent with the overall goal of reducing nonlegal work in the Office of Counsel. The present role of Counsel being the administrator of the FOIA Program is both unnecessary and a wasteful use of counsel resources.

The Office of Counsel would still be notified of all requests. This would allow Counsel to be involved if the requested documents have any impact on potential litigation or would fall within one of the statutory exemptions. Further, as the Initial Denial Authority, the District Counsel will continue to be directly involved in all requests that identify documents that are recommended for denial.

## **McKINSEY 7-S MODEL**

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to do the work. No changes are anticipated to existing organizational structure, and the existing system structure can handle the change. The Information Management Directorate is capable of assuming the additional function within its present structure. The reduced clerical and managerial workload will free time for Counsel to perform legal work.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. Transferring the function is consistent with moving nonlegal work out of Counsel.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. The recommendation does not appear to affect the style. It does make the distinction between legal and nonlegal work.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. The recommendation has no affect on legal skills. IM presently has sufficient managerial and clerical skills.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. The reduced workload may not affect Counsel staffing, but will free up both clerical and attorney time. It may have an impact on IM staffing by placing some additional demands.

(6) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. The recommendations will change reporting stovepipes: i.e., the annual report will be prepared by IM and sent through IM channels to USACE.

(7) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). The recommended change is consistent with the success criteria, and enhances professionalism and expertise, by allowing Counsel to devote its resources to legal work.

## SUCCESS CRITERIA

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. This recommendation should have no effect on quality. IM should be able to perform the managerial and clerical functions as well as Counsel. There were opinions expressed that FOIA Officers outside Counsel would not understand the regulation as well as Counsel staff, and also that Counsel may not be aware of what is being released. Neither concerns should be valid, if IM trains its personnel and coordinates its actions.

(2) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. This recommendation should have no effect on this element, as IM personnel would apply its administrative capabilities to meeting the required time frames.

(3) **Efficiency/Cost-Effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. Recommendation 13 will promote better use of resources by transferring the non-legal function, which detracts from the legal functions, to the information processing experts.

(4) **Career Development.** This criterion describes the effect of an action on career progression, satisfaction, and recruitment and retention of quality attorneys. Recommendation 13 should enhance career development. Non-legal functions would no longer be responsibility of attorneys, thereby allowing more time for the legally challenging issues.

(5) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. The recommendation should have no effect on accountability.

## LEGAL SERVICES SYSTEM VIEWS

There was no consensus regarding this recommendation from the participants at the Fifth Worldwide USACE Legal Services Conference. Forty-seven percent were in favor of the proposal, and forty-nine percent were against the recommendation.

**ACTION NEEDED**

The proposed change must be coordinated with the Information Management Directorate at all echelons, since FOIA requests can originate at any organizational level.

The Office of Counsel Mission and Functions Statement must be revised, if necessary, to reflect the transfer of FOIA Office responsibilities to IM. Responsibility for preparing and processing the annual report must be clearly assigned to the Information Management Directorate.

**RESOURCE IMPLICATIONS**

There should be none for Office of Counsel, since this is not generally regarded as a major task. However, some additional efforts may be necessary on the part of the Information Management Directorate.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
Chief Counsel

**Date:** \_\_\_\_\_

## **RECOMMENDATION 14 - *Processing Tort Claims***

**It is recommended that tort claim reports be submitted directly from originating offices to the U.S. Army Claims Service (USARCS). Originating offices include districts, divisions, HQUSACE, laboratories, and Field Operating Activities (FOAs). The Chief Counsel should request the Army Claims Service delegate their entire FTCA authority of \$25,000 to Corps area claims offices. This would require amendment of AR 27-20.**

### **SIGNIFICANT BACKGROUND**

Under AR 27-20, investigation, analysis, settlement where authorized, and reporting of FTCA claims are performed by the Army Claims Service, designated Area Claims Office, or Claims Processing Office for the activity from which the tort claim arose. AR 27-20 designates districts and divisions as area claims offices and requires each area claims office to have a claims attorney; however, ER 27-1-1 provides division offices are area claims offices and districts are claims processing offices. AR 27-20 provides the Chief Counsel will provide general supervision of the claims activities, ensure each area claims office has a claims attorney, ensure training, implement claims policies, provide for budgeting, and make adequate legal reference materials available. Appearing contradictory, ER 27-1-1 provides each district should have a claims attorney.

For recommended denial or settlement of claims in excess of delegated limits, under current practice the claims are reviewed at division offices and CECC-K prior to forwarding to the Army Claims Service. For operating divisions, labs, & FOAs, CECC-K provides the second line review prior to forwarding to the Army Claims Service. However, ER 27-1-1 allows reports on military claim matters to be forwarded directly to the Army Claims Service while review at divisions and CECC is required only for claims arising from civil works activities. As noted above, this exception does not appear to be used. Further, AR 27-20 specifically provides files of unpaid claims should be forwarded directly to the Army Claims Service, with an information copy to the next higher engineer authority unless waived and authorizes direct communication between claims offices and the Claims Service. Thus, AR 27-20 and ER 27-1-1 appear inconsistent in several matters. At present, however, each tort claim report prepared by an originating office attorney receives at least three, usually four, reviews- originating legal office, division, CECC-K, and the Army Claims Service.

Under AR 27-20, claims attorneys have authority to settle individual tort claims under \$15,000 or \$25,000 for multiple claims arising from the same occurrence. The Army Claims Service has authority to settle up to \$25,000 with the Secretary of the Army having \$100,000 authority. However, Department of Justice implementing regulations (28 C.F.R. 14.1, et seq.) and AR 27-20 require consultation with DOJ on settlements over \$25,000.

## **RATIONALE FOR CHANGE**

As noted above, tort claim reports receive at least multiple reviews which appears excessive even for complicated legal matters. Ordinarily, tort claims are not among the most legally complex matters handled by Corps attorneys. The multiple levels of review add to the cost of processing tort claims and increase processing time without clear value added. Increasing the delegated settlement authority would lower processing costs allowing larger claims to be adjudicated in the field. Army Claims Service could continue to review the larger settlements as that office receives a copy of all settled claims. Following is a brief analysis of the McKinsey 7-S Model applied to this proposed change:

### **McKINSEY 7-S MODEL**

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to do the work. Basic structure of the legal service organization is unaffected by this recommendation. Tort claim reports continue to be prepared by districts, operating divisions, labs, & FOAs but are forwarded directly to the Army Claims Service without technical review by either division or CECC-K. The organizational structure and duties are as follows:

District/Operating Division/Lab/FOA- processes tort claims, provides technical review, and forwards to Army Claims Service:

Command & Control Division- No review of district tort claims; technical expertise as needed for division claims or the division may designate a district to process division claims;

CECC-K- No direct role in processing tort claims; If litigation is filed later, CECC-K would then review for policy implications Corps-wide and issuance of guidance to the field. Originating offices are required to advise CECC-K of precedential cases or cases of national significance and provide copies of reports.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. The recommendation affects strategies to the extent current strategy includes multiple levels of review.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. Multiple levels of review are deleted.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. Skills needed are changed by deleting need for resident tort claim expertise in command & control divisions if a division chooses to designate a district to handle its tort claims. Otherwise, no change. Senior level tort claim expertise remains at the Army Claims Service. No additional skills would be needed to settle larger tort claims should that authority be granted to districts.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. Staffing potentially affected by deletion of technical review at command & control divisions. Attorneys who provide those functions will be released to perform other duties.

(6) **Systems.** This element of the McKinsey Model deals with the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. System of processing tort claims is changed significantly but automated quarterly reporting of tort claims to Army Claims Service by districts remains.

(7) **Shared Values/Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). Values and goals of professionalism, expertise, accountability, trust, and responsibility are enhanced by relying on the originating attorney with review by the Army Claims Service.

## SUCCESS CRITERIA

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. Quality is very difficult to build into a work product during the review process. Quality can best be ensured by the competence and professionalism of the primary attorney and enforcing accountability upon that attorney. There does not appear to be any problem associated with the quality of legal services relating to tort claims. Multiple levels of review do not appear to add significantly, if at all, to the quality of tort reports. Primarily, the tort claims do not involve complex legal or factual situations. The Army tort claim experts are in the Army Claims Service which maintains quality by its review. Quality does not appear to be affected at all by elimination of command & control division and CECC-K review.

(2) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. Responsiveness refers to the perception of the client that his legal needs are being met. To the extent our clients desire early resolution of tort claims, the recommendation will enhance that desire. In tort claims, responsiveness to the claimant also is a desired attribute. Timeliness in the tort claim context means the six month statutory time period for processing tort claims prior to the right to sue in Federal District Court. Timeliness of tort claim processing is enhanced by elimination of command & control division and CECC-K review, allowing more time to prepare the report and for review and decision by the Army Claims Service. This success criterion is met.

(3) **Efficiency/Cost-Effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. Cost clearly is decreased by eliminating multiple levels of review and increasing the delegated authority to settle. Efficiency of processing is likewise increased. Efficiency also is enhanced by elimination of unnecessary technical expertise at command & control divisions. Again, this success criterion is met.

(4) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. Accountability refers to reliance on one primary attorney to perform competent legal services and to hold that attorney professionally responsible for the quality of those services. Accountability is enhanced by elimination of multiple levels of review by forcing originating legal office attorneys to develop and rely, within the Corps of Engineers, on their own professional competence, thereby encouraging a quality product. This success criterion clearly is met by this recommendation.

(5) **Career Development.** Meeting the career development criterion requires a finding the recommendation provides rewarding and meaningful work, leadership opportunities, and professional development and challenge, for example. Elimination of command & control division and CECC-K review does that. Command & control division and CECC-K attorneys can concentrate on more complex and meaningful work than reviewing tort claim reports, and originator can claim total professional responsibility and a sense of trust by his/her higher authorities in the quality of the work. Career opportunities are kept open for district, operating division, labs, & FOA attorneys by their experience and training in this legal function.

## **LEGAL SERVICES SYSTEM VIEWS**

This recommendation was not presented to participants at the Fifth Worldwide USACE Legal Services Conference.

## **ACTION NEEDED**

Amendment of ER 27-1-1 to delete requirements for review by command & control division counsel offices and CECC-K, to add a requirement that districts, operating divisions, labs, & FOAs shall submit the reports directly to the Army Claims Service, and to eliminate inconsistencies designating districts as area claims offices with claims attorneys.

Request by the Chief Counsel to TJAG and the Army Claims Service to delegate all monetary settlement authority available to area claims offices. Settlement authorities under other statutes covered in AR 27-20, such as the Foreign Claims Act, Military Claims Act, and personnel claims, for example, should be included in the request to the extent some districts/divisions exercise these authorities.

Revision of mission & functions statements of command & control division counsel's offices and CECC.

**RESOURCE IMPLICATIONS**

No changes in district, operating division, lab, & FOA staff are necessary. Command & control division and CECC-K positions that include review functions and/or tort claim processing for that command should be reviewed to determine if staffing reductions/restructuring of duties are necessary due to reduced/changed workload.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 15 - *Establish Labor Counselor Requirement***

**The Labor Counselor function should be recognized and staffed as an operational function at each organizational legal office (this is regarded as a "core" operational legal function at each organizational element). Policy development of this function should also be provided by Office of the Chief Counsel. Divisions have a management role. District and Division Counsel will be responsible and accountable for alerting Office of the Chief Counsel of cases that are significant, precedential, or are otherwise of national/regional interest. The Chief Counsel should undertake to determine whether the Labor Counselor function throughout the Corps is effective, properly staffed and trained, presently and for the future.**

### **SIGNIFICANT BACKGROUND**

The Labor Counselor function comprises providing advice regarding personnel, labor relations (including Union relations), and EEO policies, practice, and activities, representation before administrative agencies and tribunals (USACARA, MSPB, EEOC, FLRA), and support in cases filed in Court. This a growing area of legal work, in workload (quantitative) and in scope and complexity (qualitative). It requires expertise in the substantive law as well as in procedure and trial advocacy. Providing legal service in this area is complicated by: the need for significant interaction with management officials and with the Human Resources and EEO staffs; the multitude of Human Resource organizational configurations through out the Corps, including centralization, consolidations, and support arrangements; their impact on also servicing the EEO elements which are organizationally and functionally distinct; and the differences between staff and line (operational) responsibility.

As currently structured, Labor Counselor services are performed by attorneys appointed at each District, FOA, Laboratory, most Divisions (or they are serviced by a supporting District); HQUSACE receives support from HECSA Counsel along with the operating Human Resources and EEO support also provided by HECSA. Policy development, dissemination, and compliance review, and management oversight may occur at both HQUSACE and at the Divisions. Staffing is an individual command option. Training is essentially ad hoc. Experience and expertise is not formally acknowledged and it is not of uniform quality. Sharing of Labor Counselor resources may not be maximized.

### **RATIONALE FOR CHANGE**

This recommendation is to leave things essentially "as is" insofar as providing operational legal services is concerned. It recommends a review of this important and growing area of legal practice (staffing, training, expertise), which may not be viewed by every Command as mission significant because it doesn't deal directly with brick and mortar issues. It takes into account the unique organizational circumstances of providing support in this area, the combination of legal

knowledge and skills required, and the systems approach to delivering legal services throughout the Corps. It focuses policy and management at HQUSACE and Divisions as appropriate.

## **McKINSEY 7-S MODEL**

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to the work. There will be no effect on structure, except to the extent it recognizes: multiple structural anomalies throughout the Corps in organizing Human Resources services; Human Resources and EEO distinction.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. This recommendation is consistent with streamlining, while maximizing success criteria. This represents an exception to the philosophy of not performing operational activities at Divisions and HQ.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. This recommendation will no effect on this element.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. This recommendation recognizes the specialized nature of this legal function. It requires an assessment of the need for enhancing and managing necessary knowledge and skill.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. The recommendation may have staff implications depending on result of recommended assessment.

(6) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. This recommendation covers possible certification, standard training, resource sharing and makes changes to the management aspect of this function.

(7) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). This recommendation is intended to maximize success criteria, through systems approach to providing this legal service.

## **SUCCESS CRITERIA**

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. This recommendation will enhance quality through proper staffing, training, emphasis.

(2) **Efficiency/Cost-Effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. This recommendation is not necessarily efficient or cost effective, partially due to organizational anomalies external to the legal services system and to emphasis on timeliness/responsiveness.

(3) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. This recommendation attempts to align both with managers and Human Resource/EEO offices to promote this criteria. Quantity and quality of labor counselors goes directly to this criteria.

(4) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. This recommendation would have no effect on accountability.

(5) **Career Development.** This criterion describes the effect of an action on career progression, satisfaction, and recruitment and retention of quality attorneys. This recommendation recognizes Labor Counselor as specialty. Level of responsibility may increase with enhanced expertise.

## **LEGAL SERVICES SYSTEM VIEWS**

This recommendation was not presented to participants at the Fifth Worldwide USACE Legal Services Conference.

## **ACTION NEEDED**

The Task Force recommends that the Chief Counsel establish a task force or assign the matter to a Standing Committee to make recommended assessment; the results should be published. Policy and management functions should be centralized within the Office of the Chief Counsel and Divisions as appropriate. It is further recommended that the Chief Counsel eliminate multiple levels of review.

**RESOURCE IMPLICATIONS**

Resource implications are to be determined based on the outcome of the recommended assessment.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 16 - *Establish Minimum Core Functions at Districts***

**It is recommended that the Chief Counsel develop a mission and functions statement which sets out core legal functions which are to be performed at every district. This statement should require staffing and resources to insure these core functions will be available to all district commands. The selection process for the core functions was grounded in the reality that for any district to fulfill its missions, even at the most basic level, it would need a functioning Office of Counsel resourced to provide the specified services. The specific core legal functions to be performed are: Administrative Law, Authorities (both Civil Works and Military Programs), both Agency and GAO Bid Protests, Civil Litigation, Command Advice, Contract Formation and Administration, Corporate Management, Environmental Law, Ethics Counselor, Fiscal Law, Freedom of Information Act, Labor Counselor, Contract Formation, Mistakes-in-Bid, Project Cooperation Agreements, Project Management, Regulatory, and Torts.**

**Arrangements to provide non-core legal services and legal services not otherwise specifically provided for in other recommendations (if adopted) should be worked out on a Division-wide basis between Command and Control Divisions and their Districts.**

### **SIGNIFICANT BACKGROUND**

Presently the Office of Counsel at every level in the Corps of Engineers is responsible for all areas of legal services regardless of size, resources or principle mission. This has led to redundancy in some areas, gaps in training and experience in other areas and difficulty in defining the proper focus for each counsel element at the three identified levels, district, division and headquarters.

A reading of the several recommendations made as part of this report is a reading about the necessity in a future dominated by scarce resources and increased competition for those resources to focus the available time and talent on the particular job at hand. In hope of adjusting the focus, the Task Force spent several vigorous sessions paring the essential legal services, which should be practiced at every district.

### **RATIONALE FOR CHANGE**

Presently all districts are designated as general legal offices and required to give technical, professional advice and representation to the district commander and staff in the broad spectrum of legal matters no matter how infrequently they come or how specialized the area of legal expertise may be. Even districts with as few as two attorneys have this requirement. Counsel organizations are being required to reduce resources and operate within funding constraints. Because of this, each

counsel element, district, FOA, division and headquarters has been reviewed and its most fundamental role identified. Headquarters is command and control and policy development; Division is management oversight of policy execution; and the Districts are responsible for execution. In order to assure execution of the districts legal responsibility within a reduced resource base it becomes necessary to identify the most basic and critical programs to provide on site legal expertise. These core legal functions would serve as a basis for the District staffing of the Office of Counsel. This analysis of core areas is likely to demonstrate that a number of districts are understaffed to effectively perform at this time.

## **McKINSEY 7-S MODEL**

The impact of adopting a core set of legal functions is significant and not without risk. Using the McKinsey 7-S Model demonstrates this.

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to do the work. The Office of Counsel at every district will define its structure differently. This new model would be modular with a basic structure of services performed everywhere, but non-core legal services available only outside certain district's boundaries.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. The adoption of a basic set of core functions will affect strategy in two ways. First it will necessitate the counsel organization operating more horizontally than it does now, because certain districts will need to create horizontal alliance to complete assignments in optional legal services areas. Also in certain ways, the legal organization will have to establish vertical strategies. Divisions are most experienced in exercising influence in a series of parallel vertical relationships with different districts on a number of issues involving legal services. Under the core function approach, division will become part of a triangular relationship with its districts, facilitating relationships between districts on a recurring basis. District counsel's at core legal offices will have to develop management strategies for overseeing work which is actually being performed by lawyers at other locations.

These changes in strategy create a significant change in the legal services delivery system. It will have to be synergistic in order to assure coverage for districts who perform the core functions. Commander's and client groups will look to their district counsels as not only their professional legal office for direct advice but also as their principle manage and oversight provide for services of lawyers outside the commander's sphere of control.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. The definition of basic core functions represents a marked departure from present style of Corps operations which presently reflects a belief that all districts, divisions and headquarters, for that matter, have sufficient legal expertise, time and staffing to function operationally in the broad spectrum of legal matters no matter how infrequently they come up, or how intensively they must be worked. This is the case even with districts with two attorneys.

By setting out core legal services, two things are accomplished in changing the style of the agency's understanding of its legal practice. First the Corps counsel will be required to integrate its approach to the provision of legal services by (1) identifying the core legal services in a formal way in a manner similar to the process some other elements are doing (i.e., standard organizational structures); and (2) based upon that identification develop internal alliances among legal elements to cover areas that are not available in districts with the core legal services. The second style change is that the district client group will be required to understand specifically what legal services are basic to all district operations and make resource decisions based upon the work load generated in those areas.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. One outcome of this recommendation is a reduction in the number of subject areas in which a district attorney may develop his or her skills. A companion to this is that for all districts the focus on core legal services should improve the skill level across the Corps in those practice areas that are critical to the success of the missions most common to all Corps districts.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. The chief impact on staffing depends on the degree to which the style changes produce an improved integration of functions and a better awareness by the client groups of the specific legal services which make a district operate effectively. The initial reaction may be a move to reduce counsel numbers in smaller and medium sized districts. However, an analysis of the core areas is likely to demonstrate that a number of districts are understaffed to effectively perform the core functions at this time.

(6) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. The systemic impacts discussed on the preceding analyses.

(7) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). This recommendation will test the degree to which the counsel organization shares goals, because the organization, as a whole, will have a shared responsibility for providing all legal services to all operational elements, including those that only have core legal services organizations.

## SUCCESS CRITERIA

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. This recommendation attempts to set a level of basic legal services below which an office of counsel will not be staffed, trained, and supported and focuses those resources on the most commonly expected needs of the district client in order to insure the quality of legal services in a time of reduced resources.

(2) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. This recommendation seeks to maintain responsiveness in the most important areas of legal services while calculating the risk of less responsiveness in some areas. Quality would not be sacrificed because all areas would be provided for within a division.

(3) **Efficiency/Cost-Effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. This recommendation recognizes the need to respond to resource constraints and work more efficient sharing resources in some instances.

(4) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. Accountability is brought more closely in line with resource capability, and basic mission responsibility.

(5) **Career Development.** This criterion describes the effect of an action on career progression, satisfaction, and recruitment and retention of quality attorneys. The impact on career development should create the opportunity in all districts for the new attorney to receive training in the core functions with the knowledge that these functions will be practiced at all district locations. However, to specialize in non-core functions, an attorney would have to be mobile. Also, certain senior attorneys would have to consider moving from one district to another if they wished to manage the most diverse of legal services organizations at the district level.

## LEGAL SERVICES SYSTEM VIEWS

This recommendation was not presented to participants at the Fifth Worldwide USACE Legal Services Conference.

**ACTION NEEDED**

The Chief Counsel should develop a regulation specifying the core legal functions for which each district must be resource. This regulation would also set out a process by which each division should establish a system for providing all other legal services for the districts within their jurisdiction.

**RESOURCE IMPLICATIONS**

The concept of core functions is to adjust the legal system to a future of reduced staffing and funding for legal services.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 17 - *Restructure Procurement Fraud Advisor Responsibilities***

**It is recommended that Procurement Fraud Advisor (PFA) function should be consolidated within the divisions as a resource to the districts. Because of the sophisticated and nonroutine nature of Procurement Fraud, which requires proficiency in criminal law and procedure as well as government procurement and contract law, each district should not be expected to have this specialization although a basic understanding of the issues should be present.**

### **SIGNIFICANT BACKGROUND**

In 1985, the Department of Defense issued Directive 7050.5 regarding "Coordination of Remedies for Fraud and Corruption Related to Procurement Activities" which established policies and procedures, and assigned responsibilities regarding the coordination of criminal, civil, administrative, and contractual remedies stemming from investigation of fraud or corruption related to procurement activities. AR 27-40 Chapter 8 "Remedies in Procurement Fraud and Corruption" established the Procurement Fraud Division (PFD), U.S. Army Legal Services Agency, as the single centralized organization within the Army to coordinate and monitor criminal, civil, contractual, and administrative remedies in significant cases of fraud or corruption relating to Army procurement. The regulation also sets forth responsibilities for improved communications and working relationships among Counsel, DAD criminal investigative agencies, contracting officers, inspectors general, and commanders. Each Command counsel is responsible for developing a program and appointing an attorney as a PFA to manage the program at their installations.

### **RATIONALE FOR CHANGE**

The Procurement Fraud Program addresses a specialized area of law, going beyond the more routine practice of government procurement and contract law. The ability to impose both criminal and civil sanctions against violators presents a highly effective tool to the government in terms of eliminating corrupt contracting practices. However, considerations of constitutional law require imposition of such penalties to be done with great care. The Task Force recommends that, within each division, an attorney be designated as Procurement Fraud Advisor; that individual will service all districts within that division, and provide advice and counsel to all activities. The PFA shall be required to have highly specialized training in criminal law and civil penalties addition to the current regulatory requirements for training and experience. An attorney shall be designated within each district to coordinate with the PFA, and shall be responsible for preventive law, monitoring procurement activities within the district, preliminary investigations of allegations of impropriety, and assisting the PFA and others in prosecuting cases. Within currently constrained resources, it is not likely that each district could support a PFA with all the desired training and experience.

## McKINSEY 7-S MODEL

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to the work. There would be minor changes required to implement this recommendation. While each district would have an attorney designated as point of contact for procurement fraud issues, there would only be a single Procurement Fraud Advisor so designated within each division. The PFA could be housed in one of the districts, or could be established as a program manager within the division office.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. The recommendation would require issuance of policy guidance from the Chief Counsel and delegation of PFA for each division. Special attention should be given to development of a cadre of highly specialized, trained, and experienced PFAs within the Corps.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. The Chief Counsel should coordinate with the Judge Advocate Army General, advising of changes to the Corps' program.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. The PFA should be provided training in all aspects of procurement fraud, government contract law, practice and procedure of criminal law, civil remedies and penalties, and other relevant areas including constitutional law.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. Although the demands upon a single PFA within each division will increase current workloads impacting upon that FTE, fewer resources will be required at the district level.

(6) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. A trained cadre of experienced and trained PFAs will contribute to the overall provision of legal services within the Corps. Each PFA will be responsible for working with designated attorneys within the districts to ensure that the program is carried out at each level. A "team" approach to detecting and remedying procurement fraud problems could be established at each district to further implement the preventive law aspects of the program.

(7) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). The government's goal of protecting the integrity of the procurement process will be furthered by designation of specialists in the area.

## SUCCESS CRITERIA

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. This recommendation will enhance the government's success in carrying out procurement fraud and corruption remedies. Development of a highly trained cadre of specialists in procurement fraud will enable the Corps' to better protect and defend its mission.

(2) **Efficiency/Cost-effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. This recommendation is more efficient in that it recognizes the need for specialized attorneys in consolidated position, rather than expecting each district to provide that select resource. Each district's point of contact for the PFA program can receive sufficient training to recognize problems which may arise, and be advised of all necessary coordination and reporting requirements. It is more cost effective to have a single, highly trained PFA than to devote the necessary time and effort for a PFA within each district.

(3) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. Although there may be more time required to contact a single PFA as the division wide asset, the ability of that attorney to quickly and effectively respond to needs will be enhanced. The designated PFA will be better able to work with TJAG PFD as well as the Department of Justice.

(4) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. Accountability. Each PFA will be accountable to the Division Counsel. Further, each attorney established as the district point of contact for procurement fraud matters will be answerable to the District Counsel, and determination of programmatic results will be part of the internal controls and command inspection programs.

(5) **Career Development.** This criterion describes the effect of an action on career progression, satisfaction, and recruitment and retention of quality attorneys. Serving as the division PFA would be additional professional experience for those attorneys so designated, with special programmatic responsibility. District points of contact will also carry grade enhancing duties within their position descriptions.

## LEGAL SERVICES SYSTEM VIEWS

This recommendation was not presented to participants at the Fifth Worldwide USACE Legal Services Conference.

**ACTION NEEDED**

The Chief Counsel should issue a policy letter to Corps' legal services organizations and TJAG (PFD) providing notice of changes in the agency's Procurement Fraud Advisor program. Mission and functions statements of Division and District Offices of Counsel should be revised to reflect relative responsibilities for administration of the Procurement Fraud Program.

The Chief Counsel should establish a training and development program for PFAs, recruitment of PFAs, and development of clear internal regulations for implementation of the Procurement Fraud Program at each level.

**RESOURCE IMPLICATIONS**

A single division-wide asset to serve as PFA will be required. No additional resources are anticipated for the District Offices of Counsel; in fact, deletion of certain duties may free District Counsel for other activities.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 18 - *Establish Counsel as Senior Rater***

**The Chief Counsel should serve as senior rater for Division Counsels, Laboratory Counsels, separate FOA Counsels, Senior Counsels, and Assistant Chief Counsels; Division Counsels should senior rate District Counsels. Commanders (not deputies) should rate Command Counsel.**

### **SIGNIFICANT BACKGROUND**

The rating chain for managing attorneys is currently specified in paragraph D-15, USACE Supplement 1 to AR 690-300/302. It specifies that the Deputy Division Commander will rate, and the Division Commander will approve the rating of the Division Counsel after receipt of the Chief Counsel's performance evaluation. In the case of the District Counsels, the District Commander is the rater and the Division Commander the approver, unless the Division Commander consents to rating by the Deputy District Commander and approval by the District Commander. Regardless of which rating option is specified for the District Counsel, the rater must have received a performance evaluation from the Division Counsel before rendering the appraisal.

The rating chain for supervisory attorneys in the Chief Counsel's Office is similarly specified in paragraph D-15. The Deputy Chief Counsel is the rater and the Chief Counsel is the approver. Under current practice, managing attorneys in the Chief Counsel's Office with Senior Counsel status are rated by the Circle Head of the circle to which the Senior Counsel is assigned; the rating is approved by the Deputy Chief Counsel.

Paragraph D-15 further specifies that all other FOA attorneys, except those assigned to Real Estate activities, will be rated by the head of the legal office concerned.

The present rating scheme was published in 1984. At the time it was published, it fairly reflected the existing organization and grading structure. Much has changed since then. Then there were essentially no managing attorneys other than the supervisory attorneys at HQUSACE, Divisions, and Districts. Since that time, several non-supervisory, managing attorneys with Senior Counsel status have been created within the Office of the Chief Counsel, the structure of which has also changed to reflect a highly integrated circle concept. Moreover, two Assistant Chief Counsels now serve as managing attorneys, but not Circle Heads. These attorneys, although assigned to their respective Division Offices of Counsel, perform both Headquarters and Division legal functions. Finally, supervisory and managing attorneys have been added to the TDA's of Laboratories, HECSA and the Center for Public Works. All of these managing attorney positions carry GM-15 grades, as do the new FOA supervisory attorney positions, and many District Counsel positions.

## **RATIONALE FOR CHANGE**

The proposed rating scheme would improve quality by fully integrating technical accountability into the performance appraisal process (not currently the case for Command Counsels, Laboratory Counsels, and FOA Counsels). Implementation of the recommendation would eliminate the need for separate professional evaluation letters and ensure the consistency of legal advice and policy implementation throughout the Corps Legal Services Organization. The proposal would establish a uniform rating practice, and conform the rating scheme to the structural evolution of the Legal Services Organization.

### **McKINSEY 7-S MODEL**

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to the work. The recommended rating scheme takes into account better the structural changes that have occurred since 1984. In the Office of the Chief Counsel, managing attorneys who are not Circle Heads will be senior rated by the Chief Counsel while other staff attorneys in the same circle would be senior rated by the Deputy Chief Counsel. All attorneys within a particular circle, except the Circle Head, would continue to be rated by the Circle Head. The revised rating scheme would both preserve the authority of the Circle Head, and better recognize the stature of the Senior Counsel. The same reasoning holds for the two Division-level Senior Counsels who would continue to be rated by the concerned Division Counsel, but who would be senior rated by the Chief Counsel.

Similarly, the recommended rating scheme would not undermine the legitimate interests of Commanders who have Command Counsel because they would be the initial raters for their command counsels, because legal services system accountability would be improved, and because consistency and responsiveness would be enhanced. Current rating practice in Districts and Divisions is mixed. In some cases Deputy Commanders rate and Commanders senior rate. In Districts this may have been more appropriate when there were no GM-15 District Counsels. There are now a significant number of GM-15 District Counsels. However, it would seem more appropriate (at least with respect to those high-graded District Counsels) for the District Counsel to be rated by the District Commander, not the Deputy, who is most often a Lieutenant Colonel and sometimes even a Major. It is recommended, however, that the rating for all District Counsels, regardless of grade, be done by the Commander and that the senior rating be done by the concerned Division Counsel. This would create a uniform rating scheme and recognize the role of the District Counsel as a senior personal advisor to the Commander, as well as Chief Legal Officer (CLO) of the District.

Having the Chief Counsel senior rate Division Counsels would enhance the special relationship the Chief Counsel enjoys with the senior leaders of the Legal Services Organization. Having Commanders rate Division Counsels would also emphasize the senior personal advisor and CLO roles at the Division level.

Finally, the recommended changes provide for the orderly rating of Laboratory and FOA managing attorneys, most of whom were not in place when the 1984 rating scheme was developed. Since these organizational elements report to the headquarters directly, a recommendation that Laboratory and FOA managing attorneys be rated by the Commander or Director and be senior rated by the Chief Counsel would be consistent with the rating scheme for managing attorneys in MSCs which also report to the headquarters.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. This criterion is not applicable.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. The proposed rating scheme would better reflect the actual management style of the Corps legal services organization, and especially the style associated with the circle concept in the Office of the Chief Counsel.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. Fully integrating professional oversight into the rating process will provide evaluative information more directly, possibly more promptly, and perhaps more meaningfully. The process may aid identification of training requirements since the senior rater would have the opportunity to review the rater's evaluation before the appraisal is finalized (not currently the case for District, Division, and FOA Counsel).

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. The proposed rating scheme would recognize the stature of senior counsels and enhance accountability through technical channels at all levels.

(6) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. The recommended rating practice would eliminate the need for professional evaluation letters by the Chief Counsel and Division Counsels. However, senior raters would still be required to address all of the factors specified in chapter seven of AR 690-300 for evaluation of the head of a legal office. The recommended rating scheme would better ensure that performance appraisals for managing attorneys who are heads of legal offices are not rendered without the input from the head of the higher level legal office required by AR 690-300. That input would become an integral part of the appraisal rather than an extraordinary attachment.

(7) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of The recommended rating chain is fully consistent with the shared values that are central to client care.

## SUCCESS CRITERIA

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. Quality will be improved by stimulating better performance through better and more meaningful performance appraisals.

(2) **Efficiency/Cost-Effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. To the extent the proposed system will reduce the effort associated with providing separate professional evaluations, some savings should be realized. The saving will probably be small. The overall efficiency of the process for providing required input to the appraisals of heads of legal offices should be enhanced, however.

(3) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. Presumably, better and more meaningful performance appraisals would help maintain an appropriate concern for timeliness and responsiveness. Otherwise, this criterion would not be affected by the proposal.

(4) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. Giving the appraisal process for senior managing attorneys greater emphasis at all levels, throughout the legal services organization, should improve the legal service system accountability of rated attorneys. Moreover, the new TAPES system provides for tracking the ratings of senior raters and documenting a rating profile that should help discipline the performance appraisal system. This, in turn, would make senior raters more accountable for their appraisals. No such statistical tracking is done for professional evaluations currently.

(5) **Career Development.** This criterion describes the effect of an action on career progression, satisfaction, and recruitment and retention of quality attorneys. Career development is not directly affected by this recommendation.

## LEGAL SERVICES SYSTEM VIEWS

Participants at the Fifth Worldwide USACE Legal Services Conference were about evenly split in their reactions to this proposal. Forty-seven percent either strongly agreed or agreed with the proposal, while fifty-one percent either disagreed or strongly disagreed.

## ACTION NEEDED

The Chief Counsel should amend the Corps' regulation on employment of attorneys to incorporate the revised rating scheme. The revised regulation in draft form should be circulated to raters of affected senior managing attorneys and the Office of the Army General Counsel for review. The Chief Counsel should examine and incorporate review comments as appropriate, and publish final revised Appendix D to USACE Supplement 1, with new rating scheme, for implementation.

**RESOURCE IMPLICATIONS**

This recommendation has no significant resource implications.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 19 - *Create Legal Services Deskbook***

**The Task Force recommends that a Corps of Engineer's Legal Services Deskbook be prepared and distributed to each Corps Legal Services Office.**

### **SIGNIFICANT BACKGROUND**

Change is occurring that affect the Corps and its legal services mission, structure, and function. The pace of that change is accelerating. There is a need to enhance our ability to provide quality, responsive legal services to the Corps effectively and efficiently. It has become more difficult to keep up with the changes, with an ever increasing amount of necessary information, and with the broadening of our practice. Systematized help for Corps legal services offices is increasingly important in order to maintain a integrated legal services support to the Corps.

### **RATIONALE FOR CHANGE**

The deskbook would provide a ready reference to orient new employees and new legal services managers in our practices and procedures. It would compile and present essential Corps legal services system information into a systematized, uniform, practical form and would provide a methodology for maintaining and improving its value and utility. The deskbook would serve as a practice guide for Corps Offices of Counsel and would be updated on a regular basis to maintain currency. In its most basic form, it would include such things as: an introduction to the Corps Legal Services System, including structure, practice areas, and operating philosophy and methodology for the system and for the individual offices; a discussion of the Legal Services System's role in relation to Corps mission accomplishment; a compendium of the principal statutes and regulations applicable to each area of practice; "how to" instructions and checklists for various legal services activities; significant Legal Services System historical milestones or events; and significant recurring requirements such as reports, training, or conferences. In this form it would be a hard copy manual. Using a multimedia approach (hard copy and automation), it could be expanded to include automated data bases such as opinion and brief banks.

### **McKINSEY 7-S MODEL**

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to do the work. This recommendation will not affect the structure of the Office of Counsel.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. This recommendation is consistent with the Task Force strategy to systematize the provision of legal services.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. No change is brought about by this recommendation, except to enhance the legal services systems as a system.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. No additional skills would be required. This recommendation would create a tool that would enhance current skills.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. No significant effect on staffing is anticipated.

(6) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. This recommendation is a systems issue with the primary focus on development, maintenance, and coverage.

(7) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). This recommendation supports the success criteria for a value-added Corps of Engineers Legal Services System.

## SUCCESS CRITERIA

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. Systematized consolidation and updating of significant legal services system information will unify the system, speed orientation of new employees and new managers, and will facilitate their ability to provide quality legal services along the range of our practice.

(2) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. This recommendation will enhance Counsel's ability to respond for the reasons mentioned under "Quality".

(3) **Efficiency/Cost-Effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. Providing context, uniformity, practice tools, and systematically consolidating and disseminating information will have a positive effect.

(4) **Career Development.** This criterion describes the effect of an action on career progression, satisfaction, and recruitment and retention of quality attorneys. Recommendation 19 may have an indirect effect by helping to speed and enhance development of skills and performance of duties.

(5) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. This recommendation will affect accountability by providing helpful tools for accomplishing legal services mission.

---

---

**LEGAL SERVICES SYSTEM VIEWS**

This recommendation was not presented to participants at the Fifth Worldwide USACE Legal Services Conference.

**ACTION NEEDED**

The Task Force recommends that the Chief Counsel appoint a group to develop a Legal Services Deskbook.

**RESOURCE IMPLICATIONS**

Development of the deskbook will require short term assignment of resources.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 20 - *Enhance Awards Program***

**It is recommended that participation in the existing system of honorary awards be enhanced by emphasizing the importance of such awards and facilitating the nomination process. Counsel are also encouraged to make better and more frequent use of traditional honorary awards such as the Commanders Award, Superior Civilian Service Award, and others.**

### **SIGNIFICANT BACKGROUND**

As a result of the interest shown at the Lake Arrowhead Conference in 1984, the Chief Counsel initiated an attorney awards program to recognize outstanding achievement by attorneys in the Corps of Engineers Legal Services. Four awards were established:

1. Spirit of Arrowhead Award. This is the highest award conferred by the Chief Counsel for any purpose. It recognizes the Corps of Engineers legal manager who, in the judgement of the Chief Counsel, best exemplifies excellence in service to clients and leadership, and has made significant contributions to Corps-wide legal services. There are no nomination procedures for this award. Selections are purely discretionary with the Chief Counsel, who will confer the award as he sees fit, according to its nature and purpose. It will not be presented more than once each year. Any civilian manager of the Corps of Engineers in any FOA element of Counsel is eligible.

2. George Wolfe Koonce Award. This is the highest honorary award for legal achievement and professional performance of legal services given by the Chief Counsel, and its purpose is to recognize the Corps of Engineers attorney whose performance has been so exemplary over a period of a year or more that the title "Outstanding Attorney of the Year" is warranted. It is normally given annually, based on supervisor nominations, and final selection by the Chief Counsel, to a civilian Counsel attorney at any organizational level.

3. Joseph W. Kimbel Award. The purpose of this honorary award is to recognize the Corps of Engineers attorney who has demonstrated, over period of one year or more, the highest potential for future achievement in the Corps of Engineers legal services system. It also is normally given annually, based on supervisor nominations, and final selection by the Chief Counsel, to a civilian Counsel attorney at any organizational level.

4. E. Manning Seltzer Award. The purpose of this honorary award is to recognize a Corps of Engineers attorney who has made one or more special contributions to the Corps of Engineers legal services mission. It is awarded at the discretion of the Chief Counsel, at any time, based on supervisor nominations, and final decision of the Chief Counsel, to a civilian Counsel attorney at any organizational level.

Since 1984, three additional awards have been given: Pride in Public Service Award, ADR Award, and the Ramon J. Powell Award for Legal Scholarship Legacy.

The awards program is regarded by virtually all legal managers as a valuable program and is well received at all levels. The awards fulfill an important need for Attorney recognition within the Counsel family, and have taken on a special significance that allows all attorneys to share in the pride of the recipients.

## **RATIONALE FOR CHANGE**

No changes in the awards, the frequency of the awards, or the number of awards are proposed.

## **McKINSEY 7-S MODEL**

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to the work. No change is required.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. Keep managers interest throughout the year.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. The Chief Counsel's emphasis on the awards program will be available to all attorneys, throughout the year.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. No change in skills us required.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. No change in staffing is required.

(6) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. Greater awareness of the awards increases nominations, thereby improving the program.

(7) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). Consistent with success criteria, especially with retention of quality attorneys, by giving them needed and earned recognition. Allows all attorneys to recognize and enjoy the successes of the Counsel organization.

## SUCCESS CRITERIA

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. Recommendations may have no direct effect on quality, but recognizing performance of a few, should improve overall performance.

(2) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. Managers will be more responsive to nomination requests.

(3) **Efficiency/Cost-effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. Recommendations will make the program more effective.

(4) **Career Development.** This criterion describes the effect of an action on career progression, satisfaction, and recruitment and retention of quality attorneys. Recommendation should enhance career development. Recognition is a motivational tool that improves professional performance.

(5) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. Accountability should not be affected.

## LEGAL SERVICES SYSTEM VIEWS

This recommendation was not presented to participants at the Fifth Worldwide USACE Legal Services Conference.

## ACTION NEEDED

The following proposals should be considered to further enhance the awards program:

(1) A document outlining the awards, and identifying all previous recipients, with their contributions, should be maintained and sent to all offices prior to the nomination time (31 August). This document could be similar to, or a part of, the three ring binder of Corps legal managers, which needs to be updated and kept current. This should rekindle interest and encourage nominations. At the present time, the latest recipients are identified in the conference summary, and no further mention is made.

(2) If there is a preferred format, it should be communicated to the supervisors.

(3) Recipients of awards made during non-conference years should be invited to, and recognized at, the following conference.

(4) The Chief Counsel should be notified when attorneys receive awards under other established awards programs (Commanders Award, Superior Civilian Service Award, etc.) and the Chief Counsel, in conjunction with his field visits, should attempt to participate in the presentation ceremonies.

(5) An Awards Document should be prepared that explains the awards and identifies the recipients. It should be kept current and available in the legal offices at all levels.

**RESOURCE IMPLICATIONS**

There are no significant resource implications associated with this recommendation.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 21 - *Develop System of Rotational Assignments***

**It is recommended that the Chief Counsel develop policy and planning guidance for using rotational assignments and other techniques to lend additional organization and structure to the overall career planning and development of the Corps attorney.**

### **SIGNIFICANT BACKGROUND**

The benefits to individual attorneys and the Corps associated with temporary developmental assignments were noted by the Career Management Committee in its report to the Chief Counsel, published in November 1987. The Committee indicated there was general support throughout the legal services organization (Counsel and Real Estate) for such assignments, of limited duration, and even a willingness on the part of managing attorneys to devote a part of their travel budgets to support these assignments. Support was strongest for assignments of from 1 to 3 months. Legal managers at the Second Worldwide USACE Legal Services Conference in November 1986 supported the concept, but gave it a relatively low priority compared to other draft Committee recommendations. Since much of the agenda described by the Committee has now been completed, it is the sense of the Task Force that this proposal should now be given some priority, but in a broader context of a long term career planning and development policy.

In the past developmental assignments tended to be workload driven, occurring only in response to a specific (and usually compelling) need for on-site help. Moreover, most of these assignments were for staff attorneys with skills in a particular field of law. They were not part of a career plan or an individual training plan, nor were they aimed at serving any broad corporate purpose. While legal managers were afforded management training opportunities from time to time, developmental assignments for them were relatively rare. Even their management training tended to be ad hoc, rather than according to any long term plan.

It is the sense of the Task Force that comprehensive career planning guidance that describes the elements of an effective career plan and offers alternative ways to integrate them would have considerable utility for both the Corps legal services organization and the individuals that staff it. For example, it could give real meaning to the "dual career path" concept, allowing our many talented professionals to pursue interests in management, pure legal work, or both, over the long term according to an orderly and flexibly structured plan. It could lead to development of somewhat standardized staffing plans that provide guidance on the right mix of versatile specialists, veteran attorneys, and managers for districts and divisions with particular missions, e.g., Civil Works, Military Construction, HTRW, etc.

Although this concept needs considerable further development, there are things that can and probably should be done early. For example, new attorneys in field activities can be brought to Washington for a brief period of orientation of, e.g. two weeks, in the Chief Counsel's Office. For attorneys in district offices another, perhaps shorter period, could be spent at the concerned division counsel office. Such assignments need not be uni-directional, either. There is no reason why new, or even veteran division or headquarters attorneys could not be assigned to a field element for a brief period to address a particular need (litigation perhaps) from time to time to gain insight into field operations and environments. Moreover, even managing attorneys could participate in such temporary assignments, perhaps by trading places for a short time with someone from another element of the Corps organization. A highly developed form of such developmental training might manifest itself in a program of regularly scheduled tours at an assigned office, not unlike the Individual Mobilization Augmentee (IMA) program for military reservists. Such assignments should be voluntary, but participation should be strongly encouraged by policies which assure some benefit to all participating organizations. This suggests that such a program may be a candidate for centralized funding, not unlike management development programs. And, to be effective, it must be pursued over a long term, according to a well defined plan. Plans for several discrete career paths could be designed, however.

## **RATIONALE FOR CHANGE**

Implementation of this proposal would contribute breadth and diversity to the experience of the Corps attorney of the future who, for a variety of reasons, may be less mobile than some in the past. It would also enhance working relationships throughout the Corps legal services organization, as well as more fully integrate the total expertise of counsel resources. While Corps attorneys participating in such a program would grow to have greater versatility, developmental assignments could also be used to enable attorneys with limited mobility to further develop needed specialties by being exposed to more varied experiences in a specialized area of practice over a long term. Properly designed, this program can improve flexibility, foster versatility, and provide for the continuous development and deployment of needed technical expertise and leadership.

## **McKINSEY 7-S MODEL**

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to the work. This proposal would not directly affect the structure of the legal services organization, but if implemented on a broad basis, over the long term, could be expected to create a more versatile and flexible workforce capable of responding to a diversified mission in a more complete and effective manner.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. This proposal, if implemented, would represent a major element in a strategic plan for the delivery of legal services well into the twenty-first century. It could be a highly effective technique for developing needed expertise, both technical

and managerial, for the long term. Leadership development could be an integral component of the program.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. This proposal could significantly affect the existing style of the legal services organization. Properly implemented, it could lead to a more highly integrated organization that is more flexible, more versatile, and more interdependent. It could alter stovepipe relationships in ways that would facilitate communication, stimulate greater trust, and enhance a spirit of collegiality and community.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. Development of needed skills of all kinds, throughout the legal services organization, and over the long term is the central focus of this proposal. The proposal entails much more than a series of individual development plans or individual assignments. Its intent is to begin building the legal services organization of tomorrow, by developing a system of identifiable career paths, providing the training and experience necessary to follow those career paths to target career objectives which, when achieved, will ensure that necessary legal leadership and technical expertise will be continuously available to the Corps as a whole.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. When fully implemented, this proposal would provide a basis for the development of staffing plans which could help accommodate the need to streamline resources over the long term while responding to a continuously diversifying, if not growing, legal services mission. It would constitute the strategic plan for staff development.

(6) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. The proposed program would have no direct impact on existing systems, but development of a new system for addressing career paths identified and pursued according to a long term plan would be required to assure consistency, equity, and quality. Some formalized method for routinely monitoring implementation and results would be required.

(7) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). This recommendation is fully consistent with the shared values that are central to client care. If implemented, it may lead to the development of new goals and values reflective of an even more highly integrated professional organization. It may significantly improve communication, networking, and a sense of teamwork.

## **SUCCESS CRITERIA**

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. Quality will be improved by exposing more staff to a broader range of

---

---

training and experience throughout their careers, by developing greater flexibility and versatility, and by improving communication and increasing trust.

(2) **Efficiency/Cost-Effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. When fully implemented, this recommendation should provide the basis for development of staffing and career plans which will provide long term continuity, flexibility, and versatility in the delivery of legal services. The legal services organization will be more highly integrated, and be able to respond to demands for legal services in a more holistic fashion, unimpaired by institutional constraints inherent in hierarchical organizations.

(3) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. Timeliness and responsiveness should be improved by having broadly trained and experienced staff available from throughout a more highly integrated legal services organization. Greater versatility should manifest itself in increased responsiveness.

(4) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. This recommendation does not directly affect accountability.

## **LEGAL SERVICES SYSTEM VIEWS**

Respondents at the Second Worldwide USACE Legal Services Conference in 1986 gave a similar, but more limited proposal by the Career Management Committee a medium to low priority. Since much of the agenda competing for attention then has now been completed, it may be time to resurface the proposal in a broader context that speaks to contemporary needs more directly and that looks to a distinctly different future. This proposal was not briefed to the attendees at the Fifth Worldwide USACE Legal Services Conference in 1993.

## **ACTION NEEDED**

The Task Force recommends that the Chief Counsel task the Career Management Committee to develop a long term career planning and development program that utilizes various training and development techniques such as rotational assignments, exchange programs, continuing IMA-like assignments, orientation tours, etc. to provide for the extended development and deployment of needed technical expertise and leadership on a continuous basis. It is also suggested that he survey the organization for possible ways of implementing this idea. The Chief Counsel should incorporate concepts developed into the Career Program Memorandum being developed by the Career Management Committee and formally publish it as a policy memorandum. A determination will have to be made about how to fund program. Finally, the "doable" aspects should be implemented immediately.

**RESOURCE IMPLICATIONS**

This proposal will require significant development and implementation efforts by the Career Management Committee and others who may be involved within the legal services organization. Implementation of programs such as an IMA-like assignment plan on a Corps-wide basis may require additional funding. Centralized funding of some aspects may be appropriate. Fully implemented, the proposal will likely be very cost effective over the long term.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 22 - *Develop Orientation Program***

**The Corps of Engineers Legal Services System should establish an integrated attorney orientation plan as part of its career management and training program to enhance the development of attorneys within USACE.**

### **RATIONALE FOR THE CHANGE**

The Corps' Engineering Division offers rotational assignments to its new employees to orient them to the Corps Engineering organization; however, Counsel has no organized orientation program for its new attorneys. It would benefit the new attorneys to receive orientation about the practice areas and organizational levels within the Office of Counsel.

The Task Force believes there is need to orient USACE attorneys to the system in which they will practice their profession. This orientation will include legal areas but also some more general management and relational areas as well. The elements recommended for the orientation plan include a video welcome by the Chief Counsel, the publication of a Corps Legal Practice manual (desk book), and a program to acquaint attorneys with the workings of all levels in the counsel organizations. The orientation also could include new attorneys attendance in a developmental capacity at the Worldwide USACE Legal Services Conference, meetings between districts and divisions, and periodic orientation sessions at the Office of the Chief Counsel.

### **SIGNIFICANT BACKGROUND**

In recent years, the USACE Legal Services System has developed initiatives related to the specific training and development of Corps Attorneys at all organizational levels. These initiatives include work of the career management committee in developing standards for attorneys, issuing the Hamm Report, advising on the implementation of new supervisory grading standards, aiding in attorney classification issues and guiding attorneys as to the types of experience that are likely to position them for advancement. In addition, the Training Committee has developed courses for attorneys as well as developed attorney resources for courses with legal implication in order to identify and enhance the role of Corps attorneys throughout the agency.

One element of USACE attorney development has not yet received focused attention. This element is the initial development and basic orientation of attorneys newly arrived at a district, division or headquarters. One reason that this has been the case is that traditionally the orientation program for all employees was the responsibility of Human Resources and a structured program did exist. In recent years, at least at some locations, a formal orientation program no longer exists. As resources become more constrained this situation will become more common.

## McKINSEY 7-S MODEL

(1) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future.

This recommendation would not directly affect the strategy because it would be an addition to the Training and Career Management committees in organizing this program within their existing mission.

(2) **Style.** Style reflects the organizational culture, attitudes, and personality. This recommendation would affect the culture of the organization because it would institutionalize the concept that USACE attorneys practice in a Legal Services System, rather than in one of 52 separate legal offices. The principle impact on style would be to create a formal, if flexible, program which would replace the present ad hoc approach to orienting new attorneys to the organization.

(3) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. This recommendation bears directly on the skills necessary to provide quality responsive legal services in the USACE. It would have a positive impact upon skill development to the extent that new attorneys are introduced to the interrelationship of their tasks with the overall mission of legal service's organization in a more orderly, predictable and timely fashion.

(4) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. This recommendation would have no significant impact on staffing is expected.

(5) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. Although this recommendation would not affect the systems used to accomplish USACE's mission, the systematic effects of individual work products would be more clearly stated to the new Corps attorneys and reenforced in experienced Corps attorneys.

(6) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). Implementation of this recommendation would expose new attorneys to the goals and shared values of USACE by meeting and interacting with the leadership of the legal service's organization and hearing, reflecting on, and analyzing the views expressed by those leaders.

## SUCCESS CRITERIA

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. An orientation program should increase quality by reducing the learning curve for new attorneys and giving them a timely introduction to the Corps methods and practice.

(2) **Efficiency/Cost-Effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. In the short term, the efficiency/cost-effectiveness costs could be questioned. However, the improvement in understanding the roles and relationships of the various USACE legal services offices should result in mid and long term benefits to efficient effective provision of legal services.

(3) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. To the extent the learning curve is reduced for new attorney timeliness and responsiveness will be benefitted.

(4) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. This recommendation should provide the opportunity for counsel leadership to impress upon new attorneys their role in successful delivery of legal services for which they are accountable.

(5) **Career Development.** This criterion describes the effect of an action on career progression, satisfaction, and recruitment and retention of quality attorneys. This recommendation will enhance career development in that new attorneys will be exposed to the breadth of legal tasks early in their careers and stimulate their interest in developmental assignments.

## LEGAL SERVICES SYSTEM VIEWS

This recommendation was not presented to participants at the Fifth Worldwide USACE Legal Services Conference.

## ACTION NEEDED

The Chief Counsel should jointly assign development of this program to the Training Committee and Career Management Committee.

**RESOURCE IMPLICATIONS**

Some periodic diversion of resources to orient new attorneys will occur. To the extent this program uses existing opportunities for contacts, this diversion can be minimized.

**APPROVED**

**DISAPPROVED**

**COMMENT:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 23 - *Increase Electronic Communication***

**It is recommended that the CEALS Program Manager initiate ways to increase communications electronically to include the establishment of USACE briefbanks and databases of legal opinions.**

### **SIGNIFICANT BACKGROUND**

At the present time, the CEALS program offers some capabilities for the USACE legal services community to electronically communicate with one another. For the past seven years, MAX, a fully automated *computer conferencing system*, has been operational. To date, MAX has not been widely used throughout the legal services system. Instead, most USACE legal services offices have opted to use the Corps-wide *E-mail system* (formerly *ONTYME*, now *Corpsmail*) as their principal means of Corps-wide electronic communication. In addition, some Division-wide local area networks [LANs] have been installed which offer local E-mail capability to Divisions/Districts. USACE is presently trying to enhance its Corps-wide E-mail capability by incorporating/ adapting the *Corpsmail* system into these local LAN environments.

In addition, the CEALS program has the technology, both hardware and software, to offer full-text document retrieval from a briefbank or document database. For the past six years, the Chief Counsel's agency protest decisions have been stored electronically in the "BIDS" system. This system has not been fully utilized by either Headquarters or field attorneys. Furthermore, the CEALS Program Manager is aware that some briefbanks or databases have been developed locally, such as that which is operational in the Lower Mississippi Valley Division. Up until recently, the Corps had access to the Department of Justice's "JURIS" system which contained useful briefs and other legal memoranda. This service is no longer available. It should be noted that the Army Legal Services Study recommended that "a formal system be established to provide for sharing legal opinions and other legal information among Army lawyers. USACE was assigned the lead for this recommendation as part of the Legal Services Study Working Group. As documented in an Army-wide survey, Army attorneys almost universally approved of the recommendation that a formal system be established to provide for sharing legal opinions. The survey further indicated that Army attorneys were interested in both opinions with some precedential value, such as opinions issued by the General Counsel, and opinions of their peers which may provide a framework for analysis and source of legal research. The Sub-Working Group's final recommendation is expected to be issued shortly.

## **RATIONALE FOR CHANGE**

The Task Force believes that both the effectiveness and efficiency of the legal services system could be substantially improved if there were greater communications throughout the USACE legal services community. The Task Force further believes that there is too much "reinventing the wheel" going on, placing an unnecessary drain on valuable and limited legal services resources. Expanded communications, via the creation of briefbanks and management databases, will likely improve morale and esprit throughout the legal services community. These information services will enhance the capabilities of USACE attorneys to provide timely, accurate and uniform legal services as well as strengthen their role in corporate decisionmaking. The present technology owned and operated by CEALS may need to be updated. Moreover, the CEALS Program Manager has indicated a desire to establish an Executive Information System [EIS] for USACE legal services managers to enhance corporate legal services management practices. The Task Force fully supports this initiative and incorporates it as part of this overall recommendation.

### **McKINSEY 7-S MODEL**

(1) **Structure.** The recommendation does not affect the USACE legal services organizational structure.

(2) **Strategy.** The recommendation is intended to enhance the business strategy already established by the Chief Counsel, namely open and honest communication throughout the legal services community. No fundamental change in strategy is necessary or anticipated.

(3) **Style.** The exchange of information by virtue of briefbanks, databases, E-mail, etc. is already part of the USACE legal services culture, attitude and corporate personality. This recommendation seeks to promote greater communications throughout the community by improving the overall technology available.

(4) **Skills.** No *significant* alteration in skill or skill level is recommended or needed in order to implement this recommendation. The Task Force believes that most USACE attorneys and support staff have the requisite skills to actively use and support a USACE-wide database of legal opinions or briefbank. It is anticipated that some additional applications training may be needed as new or additional software applications are introduced.

(5) **Staffing.** No change in staffing will be needed as a result of this recommendation.

(6) **Systems.** Again, this recommendation does not seek to make a significant change to any USACE legal services systems. The system for electronic communications is already established, namely CEALS. The recommendation merely seeks to revitalize or enhance an already established system by encouraging additional or refreshed technology enhancements.

(7) **Superordinate Goals.** No change anticipated or needed. The USACE has always "lead the way" in the utilization of automation to enhance the delivery of legal services. This recommendation fully supports all existing goals and values.

## SUCCESS CRITERIA

(1) **Quality.** It is expected that with improved communications, the availability of databases of legal opinions and briefbanks, the quality of legal services will be significantly enhanced. In this day and age of instantaneous access to information, there is no justifiable reason to constantly "reinvent the wheel." In addition, uniformity and consistency of legal advice should significantly improve as more information is shared. The Task Force believes that information sharing up, down and across the legal services community is today an *absolute necessity*.

(2) **Timeliness/Responsiveness.** Like the quality of legal services, this recommendation seeks to improve the timeliness and responsiveness of the delivery of legal services. By having ready access to key and critical information, USACE attorneys will be better able to provide accurate and timely legal advice and guidance to clients.

(3) **Efficiency/Cost-effectiveness.** Duplication of effort is simply a waste of time and resources. Elimination or at least a reduction of duplicative effort will significantly improve the efficiency as well as the cost-effectiveness of the legal services operation. It is envisioned that greater communication exchange and information sharing will drastically reduce the inefficiency (dollars and manpower) which exists in the present system.

(4) **Career Development.** No direct or indirect impact on career development is anticipated as a result of this recommendation.

(5) **Accountability.** No direct impact on accountability is expected.

## **LEGAL SERVICES SYSTEM VIEWS**

Ninety-four percent of the attendees at the Fifth Worldwide Legal Services Conference agreed or strongly agreed that a mechanism should be established to keep the field informed of opinions and positions that the Chief Counsel's office takes on relevant legal and administrative issues (including actions taken vis-a-vis directorates).

"As a take off of this, establish a briefbank as Justice Department has. Working apart as we do we keep reinventing the wheel on common questions. We can't afford that!"

"This is greatly needed in the Districts."

"Consistent interpretations of the Corp legal positions must be made at every level of the organization. We must all benefit from quality research and writings on Corps legal issues. The technology is available. It is time to post our legal positions and assure uniform interpretations of the law within all Corps Districts."

"Absolutely. Should have been done long ago."

"Should improve consistency and better decision-making."

"Our CEALS system offers us that option and it would be a tremendous database. This act alone would save enormous research time."

"Unfortunately the adoption of this recommendation will cease to allow us to reinvent the wheel daily. Effectiveness should increase with this recommendation."

"This is done to some degree today, but it could be improved."

"This is an area where automation could pay big dividends."

"We get enough paper now from HQ; we don't need any more. If there is a specific problem, we can ask."

## **ACTION NEEDED**

The Chief Counsel should task the CEALS Program Manager to initiate ways of increasing and improving communications throughout the legal services organization. This would include all means of communications, to include automation and electronic technologies. Moreover, the Program Manager should establish appropriate briefbanks and databases for sharing information and incorporate these initiatives into the overall CEALS Program. All system developments should be totally integrated into the CEALS Program utilizing the most modern and user-friendly technology available and affordable.

**RESOURCE IMPLICATIONS**

The Task Force does not expect that this recommendation will have a significant impact on resources. No additional manpower is needed. CEALS Program funds should be used to the extent available to finance the acquisition of any necessary hardware or applications software. Key to any automation system is sufficient training. The appropriate need and level of training should be identified early and properly resourced.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 24 - *Review CMIS-II***

**It is recommended that the Corps of Engineers Automated Legal Services (CEALS) Program Manager initiate a complete review of the Case Management Information System (CMIS) component of CEALS in order to ascertain: (1) whether or not CMIS is serving the purpose for which it was originally intended and (2) the viability of either upgrading the system and making it more user-friendly or replacing the system entirely.**

### **SIGNIFICANT BACKGROUND**

For the past 10 years the Case Management Information System, referred to as CMIS, has been the backbone of the CEALS program. In the early 1980's CMIS-I was replaced with a commercially available software package marketed by Inslaw (i.e. *Modulaw*). The system was heralded, at the time, as being less hardware dependent than CMIS-I and having more functional power. Most importantly, the system was designed to be a "management tool." Installed during the mid 1980's, CMIS-II has been the subject of constant and considerable controversy. While recognizing that CMIS-II has some technical inadequacies and its utilization varies from office to office, the Chief Counsel, nevertheless, has provided his unqualified support for the program and has continued to mandate its use. At the Fifth Worldwide USACE Legal Services Conference many of the attendees expressed interest in having the CMIS-II system studied for possible upgrading or replacement.

### **RATIONALE FOR CHANGE**

Ever since the present system for tracking cases within the Corps was installed, there has been an issue concerning its utilization. Numerous CMIS-II users have over the years expressed the view that the system was too difficult to learn, not user-friendly, and was too costly in terms of resources. Others expressed concern whether the system was serving the purpose for which it was initially intended (i.e. a management tool). The Task Force recognizes that considerable effort has recently been made to train users of the system. This coupled with the support for the system expressed by the Chief Counsel has increased its utilization somewhat. Nevertheless, it still appears that acceptance of the system is certainly less than universal. The Task Force further recognizes that CMIS-II has tremendous capabilities, particularly for reporting purposes. Unless and until the data in CMIS-II is up-to-date, complete, and accurate in all respects, the system and its reporting capabilities are without credibility. The Task Force believes that most users of CMIS-II would rather avoid than use the system. Thus, the reliability and credibility of the system remains an issue which must be addressed by the CEALS Program Manager.

The Task Force further believes that the recent changes which have taken place in database technology (i.e. relational databases) as well as microcomputer business applications, such as Windows-based software and graphical user interfaces, may well provide the solutions to the many complaints received from the CMIS-II user community.

## **McKINSEY 7-S MODEL**

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to do the work. This recommendation does not effect the structure of the organization.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. This recommendation does not alter the organizational strategy for the delivery of legal services throughout USACE. It recognizes that the management of cases remains primarily a function of the District Counsel and that only minimal and necessary data should be reported upward.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. This recommendation does not seek to change the organizational style or require a change in style in order to implement the recommendation.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. No significant alteration in skill or skill level is recommended or needed in order to implement this recommendation. In fact, the Task Force believes that the skill level of most attorneys and support staff who use CMIS-II is considerably advanced and that due to this skill level, CMIS-II users have grown impatient with the "older" technology associated with the CMIS-II system. Greater use of the system (if upgraded or replaced) is anticipated.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. No significant change in staff is anticipated or needed to implement this recommendation. The present CMIS-II user community will continue to use any new or upgraded case management system. The Task Force recognizes that considerable retraining will have to take place in order for the staff to effectively use any replacement for CMIS-II.

(6) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. This recommendation does not seek to make a change to the system used to manage the

caseload throughout the Corps. The system is already in place and that system is CEALS. Instead, the recommendation merely seeks the CEALS Program Manager to improve and refresh the technology associated with the existing system.

(7) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). This recommendation does not seek to change or alter any of the organizational goals or values existing for the USACE Legal Services System. The USACE legal services system has always been a leader in the use of technology to enhance the overall effectiveness and efficiency of legal services throughout USACE. This recommendation fully supports existing goals and values.

## **SUCCESS CRITERIA**

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. The quality of legal services will not be directly effected by this recommendation. However, with improved utilization of an automated case management information system, better management decisions will undoubtedly be made and therefore an indirect benefit is anticipated.

(2) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. With an improved automated system for case management, less time will be spent for data entry. Responsiveness will improve as well as greater use of the system as a management tool is expected.

(3) **Efficiency/Cost-Effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. One of the more serious complaints received about the CMIS-II is that it is inefficient and costly in terms of resources. This recommendation if implemented would result in the installation of a more efficient and efficient system to track and manage cases throughout USACE.

(4) **Career Development.** This criterion describes the effect of an action on career progression, satisfaction, and recruitment and retention of quality attorneys. No direct impact on career development is anticipated.

(5) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. A case management system can and should be used as a means of promoting and enforcing accountability. The technical problems

associated with CMIS-II negates to a large extent its ability to be used for this purpose. This recommendation seeks to improve the technology which will have a corresponding effect on the utilization of the system and therefore have at least an indirect benefit on accountability.

## **LEGAL SERVICES SYSTEM VIEWS**

Ninety-one per cent of the attendees at the Worldwide Legal Services Conference agreed that the present automation programs associated with CEALS should be improved and expanded. Comments included the following:

"Simplify CMIS - it's simply too much of a challenge for most Districts."

"Get rid of CMIS - it is extremely unfriendly to the user, little value added for the Districts."

"The basic setup is so antiquated & flawed that modifications are unlikely to ever make it truly user friendly."

"CMIS still a problem - still a reporting system."

"Either make CMIS work and be easy to use or scrap it and get one off the shelf."

"Suspend CMIS & study its need. It is too labor intensive and adds nothing but a burden to the District."

"CMIS must be eliminated."

"CMIS is a beast out of control."

## **ACTION NEEDED**

The Chief Counsel should task the CEALS Program Manager to study the existing utilization of CMIS-II and make specific recommendations regarding whether to upgrade or replace the existing system. This effort should be incorporated with other significant changes and improvements for the CEALS program.

## **RESOURCE IMPLICATIONS**

Implementation of this recommendation will not require significant expenditure of resources. It is anticipated that CMIS-II users will participate in the study. The ultimate recommendations made by the CEALS Program Manager may well require the identification of considerable resources in order to effectuate the upgrade or replacement of CMIS-II. The Task Force believes that sufficient training

will be required in any event and resources will need to be expended to accomplish the training. No additional manpower is needed to accomplish this recommendation.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 25 - *Workload and Time Accounting System***

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

### **SIGNIFICANT BACKGROUND**

Over the past several years there have been numerous studies conducted and analyses performed in support of manpower and resource distribution. For example, the Chief Counsel was recently requested to furnish workload and time accounting statistics in support of the Zero Base Review and the Horizontal Integration Study. The Task Force believes that many of the field offices likewise must be able to provide data justifying its manpower and resource needs. Moreover, USACE has been moving steadily in the direction of establishing more accurate workload and time accounting processes. CETAL and CEFMS (replacing COEMIS) are the primary tools available today and the future for reporting time and workload accounting. There continues to be a push for offices, like Counsel, who historically have been billed and reported as overhead, to establish more accurate measures of their workload and to bill its time to projects where possible. The Chief Counsel at the last worldwide CEALS conference announced that he supported the notion of having an automated workload and time accounting system for the entire USACE legal services organization. He did not however issue a mandate for the establishment of a system but instead encouraged managing attorneys to test and experiment with commercially available software and to share their experiences with the CEALS Program Manager. The Task Force is aware that the Savannah District Counsel has been using *Timeslips* on a trial basis for some time.

### **RATIONALE FOR CHANGE**

The Task Force believes that there is a need for all USACE legal offices to have the automated capability to track, monitor and analyze workload data and to reflect workload in terms of time (i.e. manyears, hours, etc.) With declining direct funded program budgets and increasing reimbursable work, the ability to "report" accurate workload and time accounting data is becoming increasingly necessary and important. The Task Force believes that uniformity in both data collection and reporting is preferred and recommends that the CEALS Program Manager institute an automated workload and time accounting system for all USACE legal offices. The Task Force acknowledges that any such system must be compatible with other existing USACE automated systems to include CETAL and CEFMS. Moreover, any system which is recommended for adoption Corps-wide must be easy to use and fully integrated with other CEALS components

## McKINSEY 7-S MODEL

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to accomplish the work. This recommendation would not have a direct affect on the structure of the USACE legal services organization.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish work and plan for the future. While the fundamental strategy of providing legal services would not change with this recommendation, the implementation of this recommendation may however lend itself to a change in strategy. For example, presently in most if not all organizational elements, the Office of Counsel is considered to be part of overhead. With improved capability to track workload data, there may be an argument that legal services ought to be provided on a "fee-for-service" basis. Thus, the corporate strategy of funding legal services might change with improved accounting of workload and time.

(3) **Style.** Style reflects the organizational culture, attitudes and personality. While no significant change is anticipated as a result of this recommendation, there may well be a collateral change in organizational style if the method of funding legal services is changed from overhead to "fee-for-service" or direct funding.

(4) **Skills** - This element addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. This recommendation would not affect the skills level of the USACE legal services organization. The Task Force believes that the automation skills of most USACE attorneys and support staff are suitable to establishing an automated workload and time accounting system.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational goals and objectives. No change in organizational staffing is anticipated or deemed necessary in order to implement this recommendation.

(6) **Systems.** This element involves the processes, procedures, and programs used to accomplish the organizational goals and objectives. This recommendation would establish a fully automated system for tracking time and workload data which would be incorporated into an already established system within the USACE legal services community, namely CEALS.

(7) **Superordinate Goals.** This element of the McKinsey Model reflects on the fundamental principles, values, and goals of the organization (i.e. why it exists). Better management of time and workload will improve the focus on "client care" as well as enhance the practice of preventive law.

## **SUCCESS CRITERIA**

(1) **Quality.** With a better understanding of what services are being provided and to whom, management decisions about resource requirements and distribution will improve the quality of the totality of USACE legal services.

(2) **Timeliness/Responsiveness.** Proper resourcing will improve both the timeliness and responsiveness of legal services.

(3) **Efficiency/Cost-Effectiveness.** With improved measures for tracking and monitoring time and workload, USACE managing attorneys will better be able to allocate critical resources to corporate demands. The overall efficiency and cost-effectiveness of USACE legal services should improve with a better understanding of how USACE legal resources are being used.

(4) **Career Development.** No direct or indirect impact on career development is anticipated as a result of this recommendation.

(5) **Accountability.** Improved capability of managing time and workload will undoubtedly enhance accountability to our clients under the concept that limited resources will be allocated to critical workload. Being better able to account for manpower and resource allocations may make legal services managers more accountable to Commanders and Directors who distribute resources. Improved accountability is envisioned.

## **LEGAL SERVICES SYSTEM VIEWS**

This issue was not presented to the attendees at the 5th Annual Worldwide Legal Services Conference. The Task Force believes, however, that there is mixed feelings (i.e., strong support as well as strong opposition) as to whether or not a time and workload accounting system should be established for the USACE legal services system.

## **ACTION NEEDED**

The Chief Counsel should task the CEALS Program Manager to establish a workload and time accounting system for the entire USACE legal services. Any workload and time accounting system should be totally integrated with USACE automated systems as well as with other components of the CEALS Program, utilizing the most modern and user-friendly technology commercially available which is affordable.

## **RESOURCE IMPLICATIONS**

Implementation of this recommendation will have resources implications. The acquisition of a commercially available software application which could be integrated into CEALS should not

be cost prohibitive. CEALS Program funds should be used to the extent available to finance the acquisition. Funding for training should also be identified as training is absolutely vital to the success of any information system. No additional manpower resources are necessary in order to implement this recommendation.

**APPROVED**

**DISAPPROVED**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_

## **RECOMMENDATION 26 - *Create Suspense/Tickler System***

**It is recommended that the CEALS Program Manager establish a suspense/tickler system for all USACE legal services offices.**

### **SIGNIFICANT BACKGROUND**

At the present time the Task Force is unaware of any existing automated system which tracks correspondence or actions coming into or leaving either the Office of the Chief Counsel, and Division or District legal offices. Examples of these types of correspondence or actions include Congressional inquiries, requests for data/information, administrative and litigation reports, personnel matters, and requests for legal opinions and /or assistance. The Task Force is aware of numerous suspense systems already in place throughout the Corps; however none seem to cut across Command & Control lines. Thus, for example, the system which the HQUSACE uses to track incoming correspondence and actions is not now used to track outgoing actions with suspense dates. This lack of ability to know, at any given time, where a particular action is causes the perceived notion that there is a "black hole" in many locations throughout the Legal Services Organization into which certain actions or correspondence fall whether intentionally or unintentionally. There is therefore a need to establish a single, user friendly, system which aids USACE legal services managers to track key or critical actions and correspondence at all levels of the organization. This will in turn promote a greater sense of confidence throughout the legal services system as well as improve its overall responsiveness, effectiveness, and efficiency of operation.

### **RATIONALE FOR CHANGE**

There is absolutely no reason why, in this day and age of automation, a legal services system as large as Corps' should not have a suspense/tickler system to assist in the tracking of essential actions and critical correspondence. The Task Force believes that there is commercially-available, off-the-shelf, software readily available and affordable which could be used with existing CEALS hardware that could satisfy the need to better manage actions and correspondence throughout the organization. Using existing CEALS hardware and/or the CEAP-IA communications network and a modest investment in commercially available, off-the-shelf, software, significant improvements could be made in management of suspense actions or other critical correspondence. This recommendation should be integrated with other Task Force recommendations which encourage improved application of automation technology to the delivery of USACE legal services. The Task Force does not envision or encourage that the recommended suspense/tickler system will be used to micro-manage workload allocations at the various organizational levels. Instead, it is envisioned that the suspense/tickler

system will promote a greater awareness of client-responsiveness, the provision of timely, effective legal services, and most importantly, encourage and in fact measure accountability up and down the legal services system.

## **McKINSEY 7-S MODEL**

(1) **Structure.** This element of the McKinsey Model deals with how people are organized to the work. This recommendation does not effect the structure of the legal services organization; Rather, this recommendation recognizes that the existing structure of the organization will remain the same (i.e. decentralized). Instead, this recommendation seeks to improve the present capability to manage critical correspondence and actions within the existing organizational structure.

(2) **Strategy.** This element involves the generic approaches and intentions used to accomplish the work and plan for the future. This recommendation is consistent with the overall strategy the Task Force envisions for the delivery of legal services in USACE, namely delegating responsibility and authority to the lowest levels possible and holding individuals, particularly legal managers, accountable for their work. This recommendation does not however require any change in organizational strategy.

(3) **Style.** Style reflects the organizational culture, attitudes, and personality. This recommendation does not seek to change the organizational style or require a change in style in order to implement the recommendation.

(4) **Skills.** This element of the McKinsey Model addresses the type of knowledge, expertise, and competencies needed to perform the organizational tasks. No significant alteration in skill or skill level is recommended or needed in order to implement this recommendation. The Task Force believes that the automation skills of many, if not most, of the attorneys (both management and staff) is well beyond the novice level. Consequently, the skills needed to use an automated suspense/tickler system already exist in most offices. Some additional training may be needed for those who do not regularly use the automation technology available in USACE.

(5) **Staffing.** This element describes the number and type of people needed to provide the organizational tasks and responsibilities. No significant impact on staff is anticipated. The workload associated with maintaining the recommended system is considered to be negligible. Some increase in workload for the CEALS management team is needed, however the Task Force believes that this be absorbed by existing resources dedicated to and funded by the CEALS program.

(6) **Systems.** This element of the McKinsey Model involves the processes, procedures, mechanisms, programs, and means used to accomplish the organizational goals and objectives. This recommendation does involve a systemic issue and seeks to improve the totality of the USACE legal services system. Furthermore, the recommendation would establish an automated system, to be incorporated into an existing system (i.e. CEALS). The Task Force believes that without a system-wide approach to the management of critical actions and correspondence, the identified systemic issues and inadequacies would continue to flourish.

(7) **Superordinate Goals.** This element of the McKinsey Model deals with the fundamental principles, values, and goals of the organization (i.e., why it exists). This recommendation fully supports the organizational goals and values already existing for the USACE legal services system. No alteration or additions are considered necessary. Of considerable importance is the need for the USACE legal services system to stay current with technological improvements and to maximize the efficiency and overall effectiveness of the services delivered through the use of automation.

## SUCCESS CRITERIA

(1) **Quality.** This criterion deals with how an action affects the quality of the legal services furnished. Better management of suspense actions and critical correspondence through automation will not have a direct benefit on the quality of the services provided. Perhaps however, the enhanced ability to track and manage workload will have an indirect benefit on quality in that managers will be more able to forecast workload issues allowing for prioritization of actions and concentration of effort.

(2) **Efficiency/Cost-Effectiveness.** This criterion deals with the impact of an action on the efficiency of providing the legal services. This recommendation should improve the efficiency and cost effectiveness of the legal services system. Knowing exactly what crucial and essential actions are in the system will minimize the disruption associated with "crash and burn" actions. In addition, a workload tickler system could reduce the numbers of redundant or duplicative actions within the system.

(3) **Timeliness/Responsiveness.** This criterion addresses how an action affects the timeliness of the legal services to the organization. Probably the most beneficial aspect of having a suspense/tickler system is that it will encourage and hopefully ensure that the delivery of USACE legal services are both timely and responsive. Tracking suspense actions will also allow legal managers to hold individuals accountable for work which may be untimely and unresponsive as well as reward those who do provide timely and responsive legal guidance to their clients.

(4) **Accountability.** This criterion involves how an action increases or decreases the accountability of a USACE legal office for its work product. As mentioned above, the recommended suspense/tickler system can and should be used as an additional tool for legal managers to hold accountable individuals for their workload at all levels of the organization. Hopefully, the proverbial "I don't think I have that action" will be all but eliminated. The Task Force cautions however that in order for this system to work it must be mandated for all levels of the organization. Accountability cuts across all command and control lines.

(5) **Career Development.** This criterion describes the effect of an action on career progression, satisfaction, and recruitment and retention of quality attorneys. No direct impact on career development envisioned. However those individuals and managers alike who use the system effectively will undoubtedly receive corresponding praise from their clients for providing them timely, responsive and effective legal advice and guidance. Therefore, this could be an indirect effect on career management.

## **LEGAL SERVICES SYSTEM VIEWS**

This recommendation was not presented to participants at the Fifth Worldwide USACE Legal Services Conference.

## **ACTION NEEDED**

The Chief Counsel should task the CEALS Program Manager to acquire the necessary technology which would provide for a simple to use, efficient automated system for tracking and managing critical suspense actions and correspondence. This effort should be incorporated with other significant changes and improvements for the CEALS program.

## **RESOURCE IMPLICATIONS**

Implementation of this recommendation will require the identification of a modest amount of resources to undertake the acquisition of the needed hardware, if any, and software. In addition, resources will need to be identified in order to accomplish an appropriate amount of training to get the system operational and then to maintain competency. The Task Force does not believe that any

additional manpower resources are needed in order to carry out this recommendation. In fact, the Task Force believes that the existing CEALS management team can absorb any additional workload associated with this recommendation.

**APPROVED:**

**DISAPPROVED:**

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LESTER EDELMAN**  
**Chief Counsel**

**Date:** \_\_\_\_\_