Congress has opportunities now to create efficiencies that would ultimately result in a more effective military force. For instance, Congress could reduce service contracting by 10 to 15 percent, which would save $175 billion to $262.5 billion over ten years. In addition, Congress can and should eliminate the Overseas Contingency Operations budget loophole to restore discipline to the defense budgeting process. This would save $173 billion in this current budget cycle.

The Committee should also be skeptical about proposals to create a new military bureaucracy with an independent Space Force. There are pressing military concerns in space, but space operations are a supporting function for the existing services. The military principle of unity of command, enshrined in the doctrine of all the services, holds that control of unique space assets should remain within their current hierarchies. Several of the plans put forward by Pentagon officials recently suggest the services will retain some organic space assets, which begs the question of the need for a redundant separate service. History shows that an independent service, in an attempt to solidify its own identity, will shortly forge its
own path and in so doing dictate policy to the existing services. This creates a confusing situation regarding who supports whom. Second only to the military concerns are the financial concerns. In the short term, by not creating a separate service, we would save approximately $13 billion in projected spending over the next five years.

The proposed fiscal year 2020 Pentagon budget at $750 billion would be the largest in American history. In return for their massive investment, the American people receive an overly complex and fragile portfolio of weapons that protects the bottom line of defense contractors but often falls far short of meeting the needs of our troops protecting us on the frontlines. In short, a bigger defense budget is resulting in a less capable force. So, unlike many who come before your Committee, I am urging you to spend less, not more.

It’s understandable that many people equate larger defense budgets with a more capable military. Common sense suggests that appropriating more money to the Pentagon would allow the services to buy more of the equipment they think they need to equip the force. Unfortunately, history has repeatedly shown that, when the services have increased budgets, they make poor decisions about the equipment they select. All of the services are burdened by poorly conceived acquisition programs, most of which were instituted in the years immediately following the September 11 terrorist attacks at a time when Congress, in a rush of patriotic sentiments, greatly increased defense budgets with the ostensible purpose of defeating the immediate threat to our way of life.

Non-state actors based in the most remote corners of the globe attacked us that day, not a developed state using the latest military technology. To combat these actors, we would have to follow into places poorly suited to our highly mechanized force. Rather than dealing with these realities, the services seized the opportunity to create a force of futuristic weapons suited for a conventional war against nuclear-armed states. However, most of these technologies were unproven and have seen significant cost overruns.

- The F-35 program’s cost grew by as much as 89% over the original baseline.
- The cost for each Littoral Combat Ship more than doubled from the original $220 million estimate.
- The Army’s Future Combat Systems program experienced a 76% cost growth before being abandoned completely.
- The cost for the Zumwalt-class destroyer grew by 45.1% before the Navy halted production after launching just 3 of the planned 32 ships.
- The Ford-class aircraft carrier program’s cost has grown an average of 21% per ship.

Each of these programs suffered serious technical setbacks as their futuristic features often proved infeasible despite the cost overruns. The Navy originally conceived the Littoral Combat Ship as a modular design with interchangeable mission packages. This plan proved unworkable, prompting the Navy to abandon it. Questions about the ship’s survivability and combat capabilities eroded support for the program, which led
to the decision to cut production short. Where most new programs feature three or four new technologies, the Zumwalt-class design included 11 cutting-edge features including rail guns and laser cannons all powered by electricity. Unsurprisingly, the complexity involved with getting everything to work properly proved too great. The problems with both programs prompted service leaders to throw in the proverbial towel and cut the planned production figures. They are now scrambling to institute new programs.

Pentagon leaders, along with their allies in the defense industry, used their typical tricks to shield these programs from scrutiny for as long as possible to make it difficult to cancel them once their performance was found to be lacking. In order to get the programs approved, they made lavish claims about the transformative capabilities of the new systems and how they would be able to deliver them on time and on budget. They spread subcontracts all over the country to secure broad political support. They did this to manipulate Congress. In the end, our troops are stuck struggling with weapons and vehicles that don’t work as intended and that they can’t maintain, and the taxpayers are stuck with the bill. As a Marine Corps tank officer, I had to deal with “upgraded” fire control electronics in the Abrams that could only be replaced and not repaired in the field. If we did not have an available spare, we were out of luck. These “upgrades” provided little to no new capabilities to the tank. They didn’t provide the ability to shoot at longer ranges or any other measurable performance increases.

It is important to remember that war is a human endeavor. The late military mind and reformer John Boyd reminded us all what it takes to succeed in war. I will quote him in full because his words, spoken before Congress in 1991, are as true now as they were then, as they would have

**History has repeatedly shown that, when the services have increased budgets, they make poor decisions about the equipment they select.**
been in 1991 BC, and as they will be in 2991. “From a reform perspective, if we ask, ‘what does it take to win wars;’ reformers believe that there are three basic elements, and in order of importance they are: People. Why? Because wars are fought by people, not weapons. They use weapons. Strategy and tactics, because wars fought without innovative ideas become bloodbaths, winnable or not. Hardware, because cars. Operators on KC-135 tankers, on the other hand, perform the same function while observing with their own eyes the position of the boom and the aircraft taking fuel. The system in the KC-46 is prone to damaging other aircraft when the boom nozzle strikes and scrapes the aircraft outside of the receptacle. This is of particular concern with stealth aircraft as damage to the special coating can increase the aircraft’s radar signature. Operators on the KC-135 rarely cause this kind of damage.

Complicated weapons have other consequences as well. They tend to be more fragile and so are prone to breaking and fouling in the often harsh and dirty conditions of combat. This would be bad enough on its own, but many of these systems cannot be fixed in the field by service members. Many weapons produced today have been deliberately designed in such a way as to require contractors to perform basic maintenance functions. As a result, systems that go down in the middle of a fight can’t be fixed quickly by troops in the field.

Congress can help simplify the challenges faced by the military by restricting the Pentagon’s budget. This would force service leaders to make better acquisition decisions. By limiting the available funds, service leaders would have no choice but to pursue simpler programs. This would actually produce a more effective force. It’s the rare example of a virtuous circle in Washington.

There is another step this body can take to ensure the military is equipped properly without bankrupting the taxpayers. Congress should not approve funds to procure large numbers of military weapons or vehicles that have not completed testing, or what is known as the Initial Operational Test & Evaluation process. Weapons purchased before the testing process uncovers design flaws will need to be modified. The cost of doing this is in addition to the original price of the weapon, which means taxpayers have to pay twice for work that should have been done during the original development process. This is precisely what is happening with the F-35 program. Congress has authorized and appropriated funds for hundreds of aircraft that have been sent to the operational forces. Every one of these are currently nothing more than very expensive prototypes. All of them will require costly retrofits to incorporate the design changes that will be identified during testing.

The scope of this problem cannot be overstated. The Director, Operational Test and Evaluation reported the F-35 program has 941 potentially mission-crippling design flaws that still have to be corrected. This testimony and its sources can be found at: https://www.pogo.org/testimony/2019/04/smaller-budgets-will-result-in-a-more-effective-military/

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BY MANDY SMITHBERGER AND SCOTT AMEY

The Department of Defense Inspector General has repeatedly found that Pentagon contractors refused to provide, or contracting officers failed to obtain, information that showed that prices the contractors charged the government were fair and reasonable. A recent report from that office focuses on defense contractor TransDigm Group, and shows that they charged excessive prices for the goods they sold to the Pentagon. In just one instance alone, the report found the company overcharged the Department by as much as 4,451 percent for one part.

While it is easy to blame TransDigm, the IG report shows that contracting laws are insufficient to make sure the military isn’t overcharged for the goods and services it purchases. Recent changes Congress has made to acquisition laws have made it easier for contractors to price gouge and have increased the risks of waste and abuse. While the claimed purpose of those changes was to speed up acquisition, they have instead resulted in risky buying methods that make excessive prices more likely.

Specifically, changes to the laws have resulted in:

- Hamstringing contracting officers’ ability to challenge a contractor’s excessive prices.
- Allowing many of the goods and services that are sold only to the Defense Department to be labeled as “commercial.” The commercial category is usually reserved for goods and services that are sold on the open market and therefore reflect prices subject to the checking power of market forces. Absent those forces, the Defense Department ends up paying excessive prices.
- Reducing oversight of contractors’ current cost information by forcing contracting officials to rely on historical pricing information.

The Pentagon’s then-pricing czar submitted a response to the IG’s recent report stating that new loopholes in pricing statutes allowing contractors to avoid providing cost and pricing information undermine the government’s ability to prevent “war profiteering” and “price gouging.”

POGO supports cutting procurement costs, buying faster, encouraging innovation, and bringing nontraditional companies to the government procurement table. But the overall effect of the so-called acquisition reforms that were purportedly meant to accomplish these goals is that the Defense Department is almost defenseless against overcharges.

Congress created the problem, and Congress will need to fix it. Ensuring the Department knows what it’s buying, can easily buy truly commercial items while preventing contractors from gaming definitions, and can hold contractors accountable for charging excessive prices requires Congress to take on real reforms.

TO READ THE FULL REPORT, GO TO WWW.POGO.ORG/TRANSDIGM.
Whether or not you think the United States’ post-9/11 wars were for oil, there’s no doubt that many troops died trying to get oil to the front lines. The lengthy convoys of fuel trucks required to keep the electrical generators humming 24/7 at remote U.S. outposts in Afghanistan and Iraq were targets for enemies armed with roadside bombs and rocket-propelled grenades. In fact, U.S. troops conducting convoy operations accounted for more than half the U.S. casualties in those countries between 2001 and 2010.

That’s one reason the Pentagon wants to build flyable and truckable nuclear-power plants to generate the power U.S. troops need to wage war deep in hostile territory.

The concept of micro-nuclear power plants on the battlefield is both inspired and insane. The idea of landing portable nuclear reactors inside a war zone is as outlandish—economically and environmentally—as it sounds.

Yet the Pentagon’s nuclear push didn’t “go critical”—achieve a self-sustaining atomic reaction—on its own. “It is the culmination of a patient, decade-long effort by nuclear lobbyists to interest Defense and its congressional overseers in a costly product—small nuclear reactors—that few in the private sector seem to want,” Edwin Lyman, a senior scientist at the Union of Concerned Scientists, wrote in the Bulletin of the Atomic Scientists in February. “The Pentagon is precisely the savior small nuclear reactor vendors need: deep-pocketed and unbefiled to return-seeking investors.”

Beyond that, the Pentagon’s nuclear advocates argue that battlefield nuclear reactors would improve the environment and help jump-start the nuclear-reactor business, creating thousands of well-paying jobs in the process. That meshes with the U.S. nuclear industry’s push to peddle more civilian reactors abroad, including a meeting with President Trump in February. “He really wanted to hear from us on what our views are on how we win the global nuclear energy technology race,” said J. Clay Sell, head of Maryland-based X-energy, an advanced nuclear-reactor company seeking business in Jordan. (Sell was also President George W. Bush’s deputy energy secretary from 2005 to 2008). The confab was initiated by Jack Keane, a retired Army general whose company has advocated U.S. nuclear development in the Middle East, Bloomberg reported.

Atomic power is big business. “The nuclear energy industry is a powerful engine for job creation,” the Nuclear Energy Institute (NEI), the industry’s main trade group, says. The industry’s 98 power plants, and businesses that support them, employ nearly half a million workers, according to the NEI.

So it should come as no surprise that the nuclear industry is pulling out all the stops as it sees climate-change concerns giving it a second lease on life, even as renewable energy (wind, solar, hydroelectric) is now producing more power in the United States. The NEI spends about $2 million annually seeking favors from the federal government. Conveniently, the Trump
Administration is seeking to bail out the nuclear industry.

The nuclear industry’s push isn’t only in Washington, DC. It’s gaining traction with state legislatures as well, most notably in Pennsylvania, home to Three Mile Island, the site of the most serious nuclear-power plant accident in U.S. history. In the last three years, Exelon, which operates Three Mile Island, has ramped up its lobbying efforts in Pennsylvania, in hopes of boosting taxpayer subsidies.

The Pentagon has had a long-standing romance with nuclear power, dating back to Hiroshima and Nagasaki, but also is exploring renewable energy sources like wind and solar. At Fort Hood in Texas, for example, the Army is drawing about half its power from them. But they’re not ready for prime time, according to the Defense Department. “Renewable sources of energy such as wind and solar can reduce the need for some fuel, but most renewable resources are limited by location, weather, time of year, storage capacity, and constrained by available land area and/or constructability,” the Pentagon’s influential Defense Science Board concluded in a 2016 report.

In the post-9/11 wars, the number of U.S. service members killed in action has been relatively low compared to earlier conflicts. But the Pentagon has been swapping blood for oil. “The increasing number of convoys required to transport an ever-increasing requirement for fossil fuels is itself a root cause of casualties, both wounded and killed in action,” said a 2009 study by the consulting firm Deloitte. “The use of IEDs and roadside bombs has been an especially effective means to disable friendly fighting forces by disrupting their supply of energy.”

Backers of battlefield nuclear reactors are leveraging this fact to bolster their case that investing billions to develop and deploy reactors is worth it. And the Pentagon is trying to build support for the plan by noting that mini-nukes have heart-warming peaceful uses, too. “A small mobile nuclear reactor would enable a more rapid response during Humanitarian Assistance and Disaster Relief (HADR) operations,” it said earlier this year in a “request for information” seeking outside help to develop portable atomic reactors for war zones.

But, as they say on late-night TV, “But wait, there’s more!” Think of it as atomic alchemy. “It is not just about basing, but warfighting capability enabled by the assured supply of energy,” the 2016 report by the Pentagon’s Defense Science Board said. According to the report, a battlefield polka-dotted with portable nuclear reactors could pretty much sustain itself. “Supplying liquid fuel and water to military forces is a significant sustainment challenge, as the two commodities typically comprise the majority of mass transported to deployed locations,” the study said. “Yet both fuel and water—and potentially other supplies (e.g., munitions and spare parts)—could be produced close to where it is needed with the necessary industrial technologies that could be powered by nuclear energy.”

That makes military planners salivate. The Pentagon has been talking for decades about lasers and similar weapons that would require mass quantities of electricity. Nuclear power could be the best choice to fuel such futuristic weapons, assuming they’re ever produced. Getting fuel to remote bases is costly—as much as $50 per gallon when delivered by truck and $400 a gallon when delivered by air—which could render battlefield lasers even less likely than physics already does. “Energy intensive capabilities are under development for which there is no parallel development for power sources,” that Defense Science Board report noted ominously. Smart taxpayers might wonder why.

Prodded to act by that 2016 Defense Science Board study, the Pentagon launched “Project Dilithium” in January. (Dilithium is a molecule made up of a pair of lithium atoms, although it is perhaps more commonly known as a key element in a fictitious Star Trek superfuel that props spaceships via a warp drive—faster than light.)

The Pentagon wants a reactor capable of generating between 1 and 10 megawatts (enough for a base housing at least 1,000 troops for three years without refueling. Weighing no more than 40 tons, it must be “sized for transportability by truck, ship, and C-17 aircraft.” And to avoid the problems posed by water-cooled reactors, it needs to be cooled by “ambient air,” just like the original VW Beetle and its distinctive putt-putt engine.

Such reactors would “fundamentally change the logistics of forward operating bases, both by making more energy available and by drastically simplifying the complex fuel logistical lines which currently support existing power generators operating mostly on diesel fuel,” the Pentagon’s Strategic Capabilities Office said in that January request seeking outside help.

The unit will be “semiautonomous—Not requiring manned control by operators to ensure safe operation,” the Pentagon says. Starting it up should take less than three days, and shutting it down should take no more than a week. Their basic design is as
simple as nuclear power gets: as the reactor fuel decays, it generates heat that is then turned into electricity. The Pentagon plans on funding up to three designs before tapping a winner from among them. Other nations—Canada, China, and the United Kingdom—are also exploring such small reactors.

Last fall, the Army climbed aboard the Pentagon’s atomic bandwagon with a report that began with an unusual, standalone quote that sat like a hood ornament atop an M-1 tank. “Unleash us from the tether of fuel,” the study began, quoting one “Gen. James Mattis, former commander of the 1st Marine Division, during the drive to Baghdad, March 2003”—and, coincidentally, you can bet, the sitting defense secretary when the Army published its report (although that, of course, the report did not mention).

The Army report mainlined hype. “The return of nuclear power to the Army and DOD will have a significant impact on the Army, our allies, the international community, commercial power industry, and the nation,” the report said. (Added bonus: militarized nuclear power would lead to “decreasing carbon dioxide emissions.”)

Then the Army overdid it. “A movement towards increased reliance on nuclear power from MNPP [mobile nuclear power plant] development, could spur worldwide jobs in high tech, electric utility, specialized manufacturing, and uranium mining industries,” it said. “Additionally, the academic disciplines relating to nuclear power would be revitalized and once again become a source of professionals for the rest of the world. In sum, the social aspects of nuclear technology development would be deep and wide, and would enhance the economic prosperity of the nation.” Whew!

And one more thing, the Army added: The nation needs nuclear reactors on the battlefield to wage twenty-first century wars. That’s because “fundamental change in the character of warfare” has now replaced “the obsolete peace/war binary.”

Sure, the Army conceded, nuclear power is a mixed bag. “Despite failed construction of two light water reactors (LWR) reactors in South Carolina [after spending $9 billion], and Chapter 11 bankruptcy filing by Westinghouse Electric [the company building them], the current political environment for nuclear power is favorable,” the Army report said. “Nuclear power enjoys strong support from both the current administration and Congress.” (So, of course, do deficit reduction and winning wars.) Lyman of the Union of Concerned Scientists says the “lobbying push” to build micro-nukes for the U.S. military comes from the U.S. Nuclear Industry Council. The Washington-based trade group says it is “composed of over 80 companies” and “represents the ‘Who’s Who’ of the nuclear energy supply chain community, including key utility movers, technology developers, fuel cycle companies, construction engineers, manufacturers and service providers.” But nuclear insiders also are playing a critical role. Among the authors of that key Defense Science Board report were some atomic heavyweights, including co-chairman Michael Anastasio, the only person to ever run two of the nation’s nuclear labs (he is the former head of Los Alamos in New Mexico, and Lawrence Livermore in California), and William Madia, who served as director of the Oak Ridge National Laboratory in Tennessee, and Pacific Northwest National Laboratory in Washington state. Nuclear power is the labs’ bread and butter, and continued work in the field will keep their workers (more than 10,000 at Los Alamos alone) employed. Frank Bowman, who spent eight years in charge of the Navy’s nuclear-propulsion program, where he oversaw the operation of 100 nuclear reactors aboard U.S. aircraft carriers and submarines, was also on the panel.

Other members were logistics experts, including Gerald Galloway, a long-time logistics expert at the University of Maryland following a 38-year Army career. “No one’s envisioned bringing them out in combat zones,” he said of the micro-reactors in 2010, “but they could provide energy in theaters at large staging areas.” He apparently was out-voted, or had a change of heart, when it came time to draft the Defense Science Board report six years later.

The panel learned firsthand how sensitive fossil-fuel casualties are inside the Pentagon. “Although the Task Force was discouraged from referencing convoy casualty factors which have been estimated in several reports, it is well-known that a significant number of casualties in Iraq and Afghanistan were associated with resupply logistics—much of which was attributed to fuel and water,” the 2016 report noted. That was a deft use of the passive voice so the panel didn’t have to say just who did the discouraging.

More than half the U.S. casualties between 2001 and 2010 in Afghanistan and Iraq happened during convoy operations (18,700 of 36,000, or 52 percent, according to a 2015 RAND Corporation report). An Army Environmental Policy Institute assessment estimated that there was nearly
one U.S. casualty for every 24 fuel resupply missions. “Every 55,702 barrels of fuel burned in Afghanistan by the U.S. military forces corresponded to one casualty,” according to an Army Technology analysis of the study’s findings.

The U.S. military, and those responsible for powering it, say it needs to stop bleeding for oil. “If a better way could be found to generate electricity at remote bases—that’s what most of the fuel is used for—it could greatly reduce the risks to our military,” Andy Erickson of the Los Alamos National Laboratory, home of the world’s first nuclear bombs, noted last fall. He argued that a new kind of “micro-nuclear reactor” under development by Los Alamos and Westinghouse could help reduce the carnage. “The reactor core itself is about the size of the garbage can that you roll down to your curb each week,” he said, offering a new vision of nuclear waste. “By working with an experienced nuclear vendor like Westinghouse to design, build, and test these units, a near-term solution to remote power for the military can be quickly realized.”

There are proliferation risks associated with deploying nuclear reactors amid wars. The 2016 Defense Science Board report suggested that portable nuclear reactors be fueled only with low-enriched uranium that couldn’t be turned into nuclear weapons, although it conceded they would represent “a lucrative target to become a dirty bomb if breached.” The Pentagon’s January 2019 solicitation said that “technology, engineering, and operations must demonstrate minimization of added proliferation risk.”

Of course, the U.S. government has been through this before, dating back to President Eisenhower’s “Atoms for Peace” initiative. That led to the first nuclear reactors in Iran and Pakistan. Harnessing nuclear power on the battlefield would require changes in U.S. military training, nuclear regulation and licensing, as well as convincing foreign governments to let them on their soil. “Since the U.S. nuclear industry and its regulators have not yet dealt with a mobile or transportable design, the Army will experience many unique first-time costs in laying the groundwork for regulatory and international approvals and acceptance,” the Army’s fall 2018 report said. “This work will be costly and time-consuming, and require much interagency coordination and support to accomplish.” Piece of yellowcake!

Training soldiers to deploy and operate portable nuclear power plants would be challenging, although the Army said in the report, “this requirement is not anticipated to be as demanding as that of a nuclear weapon.” Any Army port-a-nuke “must prevent the reactor from going critical when it should not, such as during movement/transport.” While such a reactor “is not expected to survive a direct kinetic attack,” the Army said it would be designed “for the protection of personnel who may be adversely affected by the system or threats to the system.”

Outsiders are dubious. “Even a reactor as small as 1 megawatt-electric would contain a large quantity of highly radioactive, long-lived isotopes such as cesium-137—a potential dirty bomb far bigger than the medical radiation sources that have caused much concern among security experts,” the Union of Concerned Scientists’ Lyman warned in the Bulletin of the Atomic Scientists. “At best a release of radioactivity would be a costly disruption, and at worst it would cause immediate harm to personnel, render the base unusable for years, and alienate the host country.”

Any radiation leakage would be far more vexing than the cleanup after dumping about 20 million gallons of Agent Orange and other herbicides on Vietnam from 1961 to 1971. “While design simplification and damage-resistant fuel choices help, detailed planning for cleanup and removal of battle-damaged reactors or reactor components will be expensive and pose some technical challenges to resolve,” the Army report said, likely requiring changes to “existing treaties, international agreements, and policies.”

At the end of the day, of course, the big bugaboo is what to do with all that spent, but still dangerous, nuclear fuel. But not to worry: the Army has figured that out, too. “Nuclear fuel is a DOE [Department of Energy] responsibility,” the Army notes. “Issues such as recycling of nuclear fuel or long-term disposal are not DOD’s business.”

Perfect.

Of course, the Energy Department hasn’t figured out what to do with the 80,000 metric tons of spent nuclear-reactor fuel created by U.S. commercial reactors over the past half-century. Bottom line: thinking about sending portable nuclear reactors off to war is kind of like invading a country with no plan for how to get out.

This article and its sources can be found at: https://www.pogo.org/analysis/2019/04/a-new-kind-of-nuclear-war/

ABOUT: The Military-Industrial Circus is a regular column by Pulitzer-prize winning National Security Analyst Mark Thompson for the Center for Defense Information at POGO.
Scrapped Instead of Sold

Surplus Humvees could save taxpayers hundreds of millions

BY DANIEL VAN SCHOOTEN

A Project On Government Oversight investigation has found that the military is paying to crush tens of thousands of Humvees when it could legally donate or sell them, possibly forfeiting hundreds of millions of dollars.

The military is paying to crush tens of thousands of Humvees when it could legally donate or sell them, forfeiting by its own estimate at least $156 million in the first six years. The total financial impact, including savings to the military and other state and federal agencies, is far greater, reaching into the hundreds of millions of dollars, according to an analysis by the Project On Government Oversight. But the agency responsible for processing surplus military equipment states that federal regulations force it to destroy most surplus Humvees.

How the U.S. government has handled its surplus Humvees provides a window into the complex, sometimes contentious, and sometimes seemingly arbitrary bureaucratic world of demilitarization for Pentagon gear. A substantial policy shift occurred five years ago. Prior to 2014, all surplus military vehicles—even unarmored support vehicles—were under the jurisdiction of the State Department’s United States Munitions List. Generally, as long as a vehicle remains on that list, it cannot be released from military control unless it is first crushed or scrapped.

In 2014, the Departments of State and Commerce—both of which have a say in managing exports of sensitive material—overhauled the system, with the intent of reserving the State Department’s list for “only those items that provide at least a significant military or intelligence applicability.” The military’s unarmored and unarmored vehicles were transferred to Commerce’s Commerce Control List, which governs items that might have dual military and commercial uses. It is less restrictive than the United States Munitions List, and is primarily for controlling the export of items under its jurisdiction.

Neither the State nor Commerce Departments’ lists specify vehicle models, instead placing restrictions on vehicles with certain characteristics, such as armor or weapons. For example, Category VII of the United States Munitions List, the section that applies to ground vehicles, defines armored vehicles as those with armor installed that can stop rounds fired from a high-powered rifle or submachine gun. Removing the armor, however, would move the vehicle from that list...
to Commerce’s list (provided the Humvee didn’t have any other restricted parts). Once governed by Commerce’s list, it is possible for the Humvee to be donated to other government agencies or sold to the public, provided any parts controlled by other policies or rules are first removed.

The earliest Humvee models had a payload capacity of 2,500 pounds, which, when fully loaded with cargo or 10 people, left little room for the heavy armor needed to provide effective protection. Although later models with increased capacity could be equipped with add-on armor packages, many went without. Only the latest models have armor that is built-in and cannot be removed.

In response to the 2014 regulatory change, the Defense Logistics Agency (DLA), which manages the military’s surplus equipment, sought and received an official determination from the Departments of State and Commerce that the two most basic Humvee models, the M998 and the M1038, were governed by Commerce’s list and not State’s. With that official determination, the DLA began selling and donating those Humvee models in 2015. In the years since, however, the agency has not sought the same interagency determination for any other Humvee models.

If a surplus Humvee is governed by Commerce’s list and meets the requirements for domestic sale, the DLA puts the Humvee through a surplus disposal process. That process begins by offering it as a donation to federal agencies and then to state agencies, and, if the Humvee is still in DLA’s inventory, finally offering it for sale through a contractor to the general public. This regular surplus process is distinct from the more controversial 1033 program, which loans armored Humvees and other restricted United States Municitions List equipment such as grenade launchers or Mine-Resistant Ambush Protected vehicles (MRAPs) to local police forces. While unarmored vehicles can also go through the 1033 program, they continue on through the rest of the surplus process when not selected. If restricted surplus vehicles are not selected for the 1033 program, they must either be demilitarized or destroyed.

The demilitarization process for Humvees generally includes removing any restricted weapons, armor, and communications equipment. All vehicles are assigned demilitarization codes indicating whether they must be destroyed, have “key points” that must be destroyed, have export restrictions, or have no restrictions. The military has a flowchart showing the various considerations for assigning codes, and it is possible for two vehicles with the same code to be governed by different lists. The military services are responsible for assigning the codes when vehicles are first procured, but the DLA manages the overall system and verifies that the codes are accurate during the disposal process. The services are not required to fully demilitarize vehicles before they are turned in to the DLA for processing, but they can if they choose to. Likewise, the DLA is not required to perform additional demilitarization work on the vehicles (since crushing also counts as demilitarizing), but it could also hire a contractor to demilitarize the vehicles, according to a 2015 study commissioned by the agency.

When POGO asked the DLA why more Humvee models weren’t being donated or sold, the agency initially stated, “The bottom line is until the [demilitarization] code is changed by the Army, DOS [State] and DOC [Commerce], DLA cannot sell additional [Humvee] variants. To date, the [demilitarization] code has not been changed.” That statement generally matches what the agency has said before. For example, in a 2017 letter to Senator John Cornyn (R-TX), the agency asserted that Humvee models other than M998s and M1038s are still governed by the United States Municitions List.

The agency failed to mention to Senator Cornyn, however, that the only thing standing in the way of moving the vehicles to the less restrictive Commerce Control List is a formality that the agency told POGO it has made no attempt to navigate. Namely, the agency has not asked State and Commerce to provide an official determination on which list has jurisdiction over additional Humvee models like it did for the two earliest models.

“It is beyond our understanding as to why there would be a public contract to scrap vehicles that our state officials need for disaster assistance, wildfires, flooding, tornado and hurricane relief.”

—An association representing state agencies eligible for surplus vehicle donations, in a letter to the DLA in 2018.
In a 2018 letter to Representative John Carter (R-TX), the agency was less specific, saying that the assignment of vehicle demilitarization codes is “in accordance with [State] and [Commerce] regulations.”

After several follow-up emails from POGO, the agency acknowledged that at the time of the 2014 reform, they “determined that non-armed/non-armed [Humvees] were not [Munitions List Items].”

The DLA told POGO that some other Humvee models do lack armor, and, echoing their prior communications, that they believe approval from the Departments of State and Commerce is required. However, a significant reason given by the Obama Administration at the time of the 2014 reform for not listing specific vehicle models is because it would be too burdensome for State and Commerce to go through and label every single piece of inventory affected. The Department of Commerce’s website explicitly allows other entities, including foreign ones, to self-determine which list, if any, applies to an item. When in doubt, those entities can seek an official determination, but doing so is optional—a formality officially recognizing what was already the case.

The impact of the DLA’s position has real consequences. A 2015 study commissioned by the DLA, and obtained by the Project on Government Oversight through the Freedom of Information Act, states that “there is no downside to authorizing the sale of any non-armed [Humvees]” provided it has been properly demilitarized. The study figured that the agency is leaving almost $156 million on the table over the six years from 2015 to 2021 by not demilitarizing and selling five Humvee variants that are “very similar” to the ones already being sold, “just with a higher payload capacity.”

A study commissioned by the Defense Logistics Agency figured the agency is leaving almost $156 million on the table by not demilitarizing and selling five Humvee variants.

POGO estimates that substantially more money could be recovered through the program, given the study’s undervaluation of the Humvees—they are currently selling for many times the estimated price—and that it only considered selling five variants when numerous additional models could be demilitarized and sold. Since the agency must pay for vehicles to be destroyed (a cost that is diminished but not eliminated by the resulting scrap value), donating or selling the vehicles instead could also save the agency tens of millions of additional dollars.

Furthermore, the DLA estimate fails to account for the savings to other federal and state agencies that would be able to receive these vehicles at a very low cost. By donating or selling the vehicles instead of scrapping them, the military could easily save taxpayers hundreds of millions of dollars, POGO estimates. Although the available estimates for surplus vehicle numbers stop in 2021, additional savings would likely continue to accrue in following years as more vehicles become surplus. These numbers are also limited to Humvees, and do not include other military vehicles, such as heavy duty cargo trucks, that are being scrapped instead of demilitarized and sold.

While private collectors and off-roading enthusiasts may be willing to pay a premium for the utility trucks, government sales of Humvees can save more than just money. When they are donated to state agencies, the vehicles can also help save lives during natural disasters. An association representing state agencies eligible for surplus vehicle donations wrote to the DLA in 2018, saying, “It is beyond our understanding as to why there would be a public contract to scrap vehicles that our state officials need for disaster assistance, wildfires, flooding, tornado and hurricane relief.”

POGO’s analysis defers to the military’s determinations of which vehicle components should be restricted; however, the government is sometimes internally inconsistent. For example, the Department of Defense policy guidance manual gives a general code to deep-water fording kits for Humvees. The DLA uses a type of sub-code to further designate fording kits as sensitive, requiring destruction. Meanwhile, the Marine Corps regularly assigns a different sub-code to Humvees with the fording kits installed. That code carries only export restrictions. Neither designation appears to violate the official guidance. However, POGO has found and verified recent examples where the DLA has sold stand-alone fording kits with no restrictions and a completely different code.

Fording kits are a fitting example of the inconsistencies found in the whole surplus demilitarization process. And
inconsistencies play out in far bigger ways, as well. Some parts of the military, including the Marine Corps and Special Operations Command (SOCOM) are demilitarizing and selling Humvees the DLA won’t (including the M1025 and the M1123), at least some of which used to have add-on armor installed. These different parts of the Defense Department have interpreted the same rules in dramatically different ways, with the resulting practices making little sense, and taxpayers paying the price for it.

To sell these vehicles, the Marine Corps and SOCOM are using a special program known as the Exchange/Sale Authority. The exchange process, which is established in law, allows agencies to sell old equipment and put the money towards the cost of new “similar items.” It is not supposed to be used to dispose of surplus material, but given the vague wording of “similar items” in the law, using it to sell Humvees without purchasing replacement Humvees is likely legal, according to a 2018 report by the Government Accountability Office.

Reforming the exchange sale process has been the “number one priority” for the national association representing state surplus agencies, which lose the opportunity to receive the equipment for free (plus shipping and handling) when the services use the exchange program instead of the regular surplus process. Agencies are encouraged to make the equipment available for donation prior to use of the exchange sale authority, but are not required to do so.

The usual restrictions on armor and weapons still apply when services use the exchange sale process, meaning that the Marine Corps and SOCOM had to find a way to move the previously armored vehicles from State’s list to Commerce’s list. When POGO asked SOCOM if any interagency approval was needed to do so, a spokesman for the service only said that the agency had coordinated with the Transportation Security Administration and the DLA for approval of the sale. According to what the DLA told POGO, however, nothing can be sold unless State
and Commerce officially change which list a given Humvee model is governed by. These same vehicles, if designated as surplus and sent to the DLA, would have been crushed. POGO’s investigation found a handful of examples within the past year of demilitarized Humvees beyond the two approved models that the DLA did sell, but when POGO asked about them, the agency stated the vehicles were “misidentified” as one of the two approved models. The agency is now attempting to reclaim the vehicles from their new owners and destroy them.

Because the DLA believes the vehicles are governed by State’s list, it doesn’t let contractors remove unrestricted parts like seats or batteries from the restricted vehicles before they are crushed. Rather, the agency contracts with scrappers to crush the vehicles, and then transfers the title to the scrap, an agency spokesperson told POGO. Since Humvees share many parts with civilian Hummers, and a fair number of Humvees sold are no longer functioning, there is a market for parts. If the vehicles fall under Commerce’s jurisdiction, certain parts are explicitly designated in the 2014 reform as unrestricted in order to encourage their separate sale.

Both the DLA and the services are bound by the same regulations regarding the United States Munitions List and the Commerce Control List. When asked why the services were able to remove the vehicles from the munitions list but the DLA couldn’t, the agency stated that while the military services are capable of demilitarizing and selling individual vehicles from an otherwise restricted fleet, the DLA is not. The agency said that this was due to its different responsibilities and that it lacks the facilities or labor force for removing restricted vehicle parts—a different reason from the jurisdictional issue the agency previously provided. The agency’s 2015 study even suggested contracting out work to overcome capacity issues.

One model, the M1097, makes up half of all Humvees currently being scrapped, despite the fact that it would take roughly the same amount of time to process as the approved models: less than 45 minutes, according to the agency’s 2015 study. Other vehicles, such as those with bolted-on armor or bulletproof windshields, would require more work. The 2015 study cited one military engineer who stated it could take 60-70 hours to demilitarize vehicles with added-on armor, but the contractor currently demilitarizing Marine Corps Humvees has publicly stated that it removes and destroys similar armor packages in just 6-7 labor hours per vehicle.

In 2018, the DLA’s Office of the Inspector General looked into whether the DLA was following the established rules regarding demilitarization codes. The office, which is not structurally independent like the main Department of Defense Inspector General is, concluded in September 2018 that the agency is “properly coordinating, establishing, and verifying [Demilitarization] Codes for rolling stock.” However, while the report cites the applicable policies and the 2015 cost analysis, it does not indicate that any actual review of vehicles or agency actions were undertaken. In fact, it appears to badly misrepresent the conclusion of the 2015 study. Despite the fact that the 2015 study explicitly recommends the sale of five additional models, and estimates nearly $156 million in profit, the inspection General’s report ends, after significant redactions that appear to simply summarize the cost-benefit analysis, “the conclusion of the [study] was that it would not be cost effective to [demilitarize] additional rolling stock.” When POGO asked the Inspector General’s office to clarify its conclusion, the office referred our questions to the main DLA public affairs office, which stated that the report “wasn’t focused on the specifics of the [study], but rather if DLA was following the rules and regulations of the [demilitarization] process.”

While the agency may not be breaking any rules in scrapping the vehicles, it doesn’t have to break the rules in order to sell them. If it needs State and Commerce to formally determine that a given Humvee model, when unarmored, can be sold, it could start by asking them, like it did for the first two models. Given the actions of the Marine Corps and SOCOM, it isn’t completely clear that an interagency confirmation is even actually needed.

The DLA has scrapped over 19,000 Humvees since the 2014 regulatory change, according to the agency, but there is no need for the waste to continue. The military likely owns over 100,000 Humvees, the vast majority of which taxpayers will pay to scrap unless something changes. If something does change, it could conceivably save taxpayers over a billion dollars.

This article and its sources can be found at: https://www.pogo.org/investigation/2019/04/scrapped-instead-of-sold-surplus-humvees-could-save-taxpayers-hundreds-of-millions/

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INSIDE

1
DAN GRAZIER
SMALLER BUDGETS WILL RESULTS IN A MORE EFFECTIVE MILITARY
A bigger Pentagon budget is resulting in a less capable force

5
MANDY SMITHBERGER AND SCOTT AMEY
IN FOR A TRANSDIGM, OUT FOR BILLIONS
In one instance, TransDigm overcharged the Pentagon at least $4,451 for one part

6
MARK THOMPSON
A NEW KIND OF NUCLEAR WAR
The idea of deploying portable nuclear reactors into combat is as outlandish as it sounds

10
DANIEL VAN SCHOOTEN
SCRAPPED INSTEAD OF SOLD
Surplus Humvees could save taxpayers hundreds of millions