



NATIONAL DEFENSE RESEARCH INSTITUTE

# ***Statutory and Regulatory Constraints on DoD Acquisition***

**Presented at 2005 PEO/SYSCOM Conference**

**15 November 2005**

# *Outline*

- **Background, Context, and Research Approach**
- **Findings**
  - **Summary**
  - **Evidence**
- **Conclusions**
  - **Findings**
  - **Policy Implications**

## ***Context: Past Studies Have Yielded Unsatisfactory Results...***

- **Little success in measuring the consequences of legislative or regulatory constraints or action**
- **Some narrowly defined cases have had limited success**
  - **OTA, special access programs, pilot programs, etc**
- **Only rarely has a specific consequence of a specific law or regulation been identified and quantified**

## ***...Because Constraints Are Deeply Embedded in Existing Procedures***

- **Hard to separate the consequences of legislative or regulatory actions from the many other controls and events that affect program outcomes**
  - **Example: Was V-22 program delayed by legislative directive demanding proof of corrective actions?**
- **The “path not taken” (I.e., without legislative and regulatory constraints) cannot be defined and assessed definitively**

# *What We Were Tasked To Do*

- **Generate empirical evidence of statutory/regulatory constraints on the acquisition process**
  - **Develop and demonstrate methodology**
  - **Collect data**
- **Understand the mechanisms through which such constraints manifest**
- **Work with OSD to develop alternative concepts for mitigating those constraints**

*The project addressed costs at the government program office level*  
*- We did not address costs incurred outside the program office*  
*- We did not address the benefits of statutes and regulations*

# ***The Hypothesis***

## ***Myth or Reality?***

***Program office activities are governed by a myriad of statutes and regulations***



***These statutes and regulations place constraints on programs***



***Program offices spend a significant amount of time complying***



***A significant amount of that compliance time is burdensome***



***There are real consequences to programs due to that burden***

# *The Project Had Three Phases*

- **Phase 1: Research design (6 months) *(completed)***
  - Interviewed OSD, service, and program office officials to identify burdensome statutes or regulations
  - Developed a web-based data collection process for Phase 2
- **Phase 2: Real-time data collection and monitoring of 7 program offices (12-14 months) *(completed)***
  - Pilot test (4 weeks) ensured data collection was robust, easy to use, and provided useful information
  - Fully field data-collection protocol and conduct supporting analyses
  - Prepare mini case studies
- **Phase 3: Analysis and report (4 months) *(on-going)***
  - Integrate and report results
  - Work with OSD to develop alternatives to mitigate most burdensome statutes and regulations quantified in Phase 2

*We are  
here*



# ***Research Design Results***

## ***The Problem: A Clear and Consistent Disconnect***

- **Consensus that statutes and legislative actions related to acquisition place significant constraints on program management**
- **But, acquisition managers do not collect data and are unable to estimate effects of such constraints**
- **Managers recognize constraints and adjust/adapt to processes they find inefficient**
- **Activities associated with statutes and regulations are highly institutionalized**

# ***Focus on Five Statutory and Regulatory Areas***

- **Clinger Cohen Act (CCA)**
- **Core Law and 50/50 Rule**
- **Program Status Reporting (PSR)**
- **Program Planning and Budgeting (PPB)**
- **Testing**

***Research focused on “compliance” activities,  
not “program execution.”***

# ***Program Offices Provided Time and Activity Information For These Five Areas***

- **Simple, user-friendly, web-based data collection protocol fielded over 12-14 months**
  - **Captured individual info once (rank, pay grade, experience at job)**
  - **Tailored forms (web pages) by statutory/regulatory area**
    - **Type of report/activity keyed to the specific requirements of each area**
    - **Record hours spent**
    - **Capture other and comments (open ended)**
  - **Took less than 10 min every two weeks per individual user**
- **Validated/captured program consequences through follow-up interviews, parallel analysis**

## ***The Key Methodological Assumptions Were Mostly Validated***

- **Programs agreed to participate**
- **Programs identified who needed to participate**
- **Program office personnel actually did participate**
- **Participants were able to divide their time into discrete categories (activities)**
- **Participants provided honest input**

# *Outline*

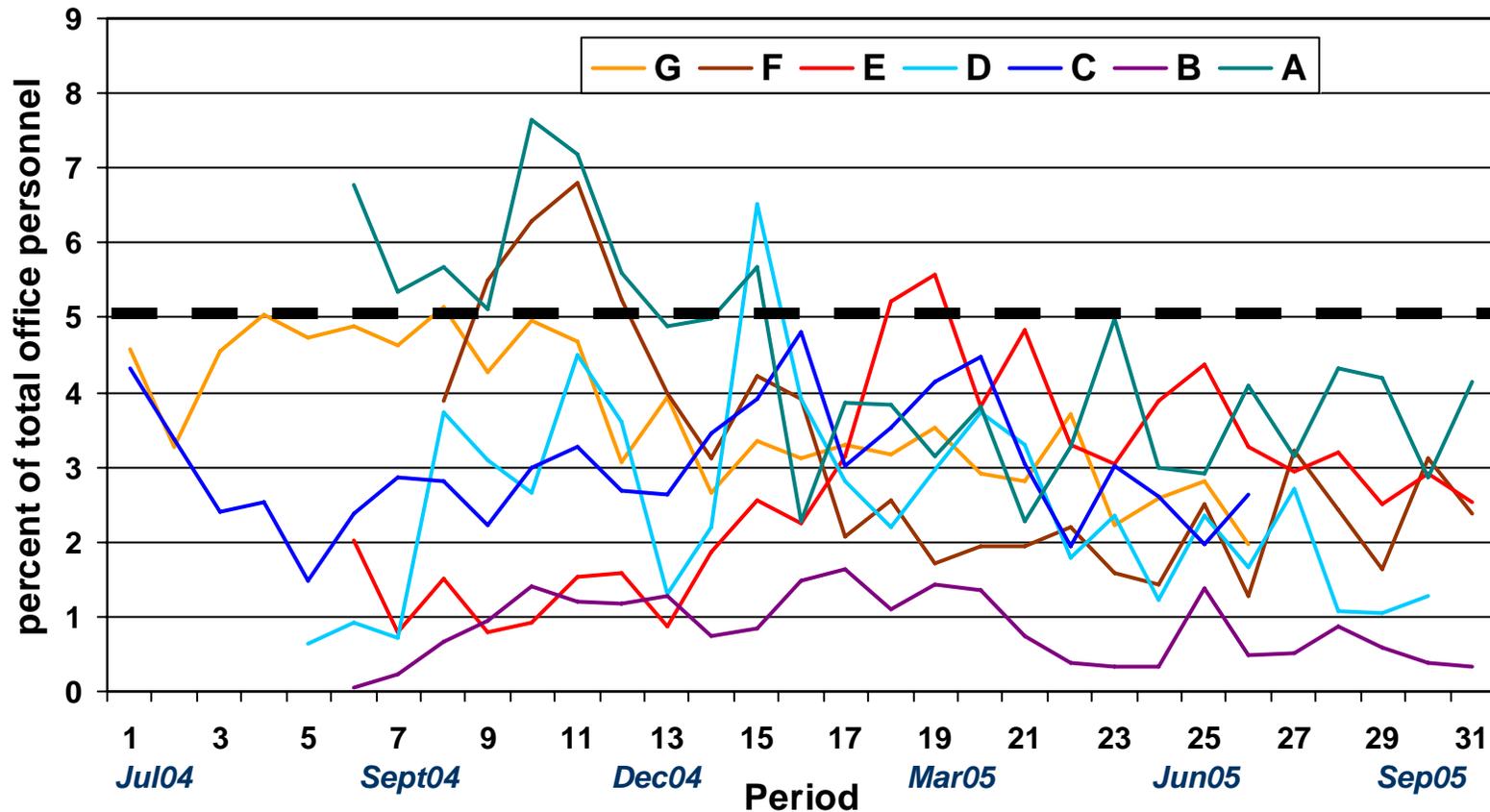
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# ***Summary of Key Findings***

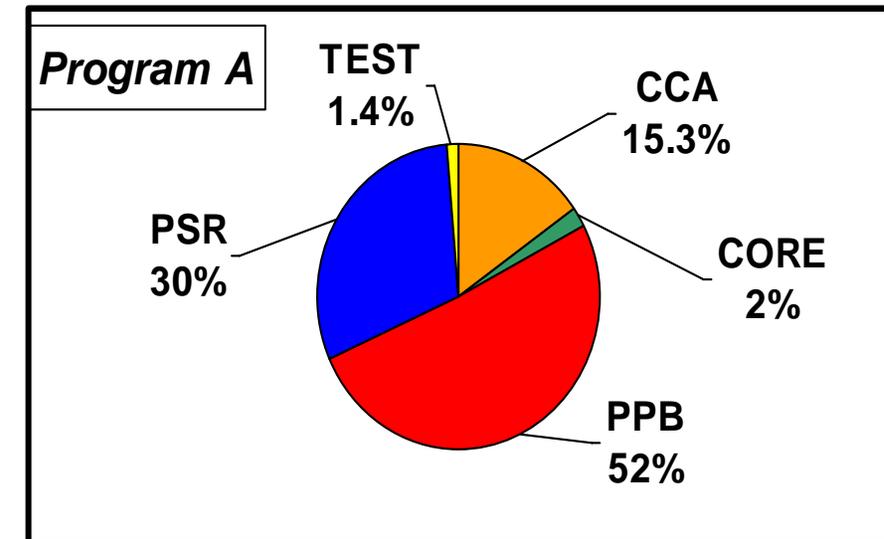
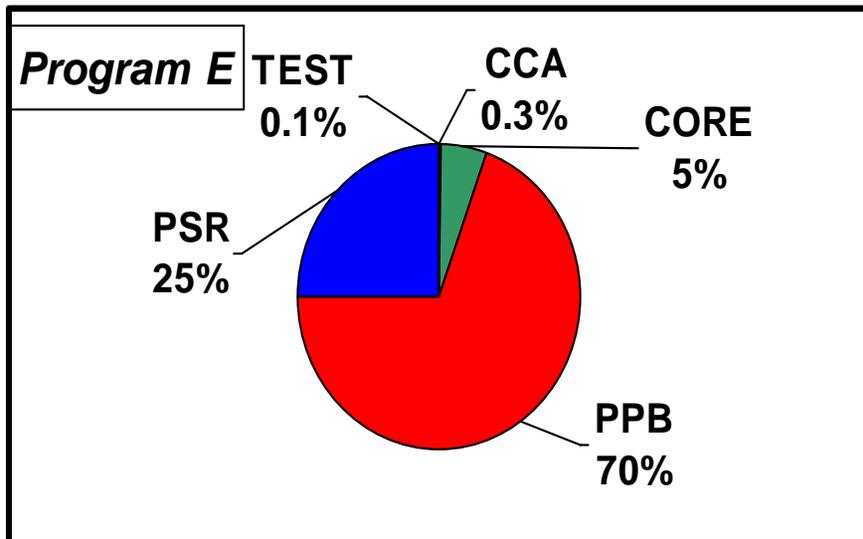
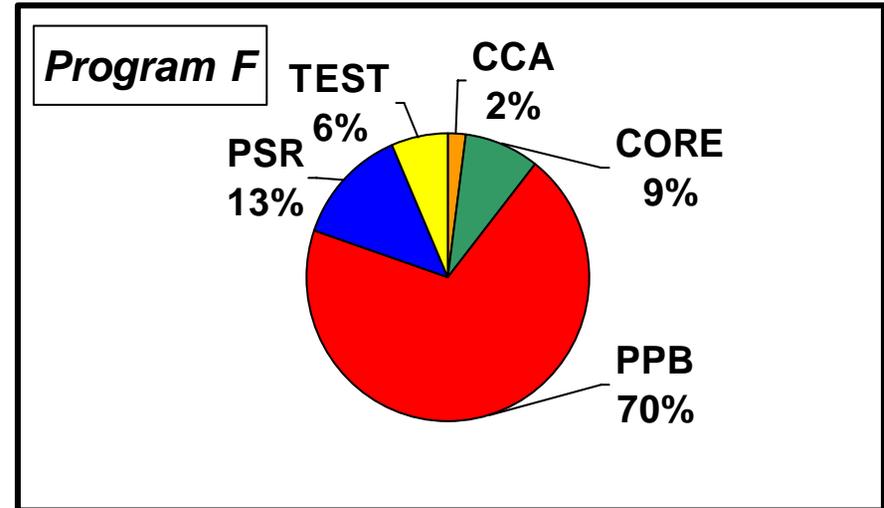
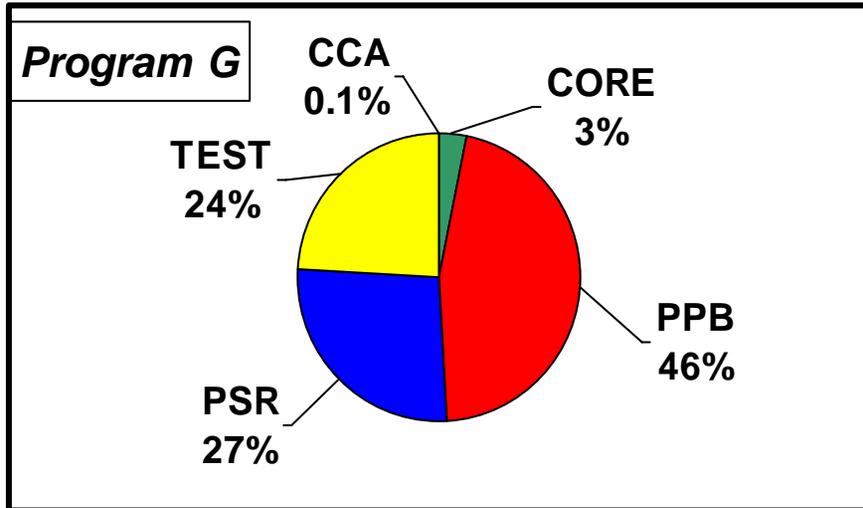
- Total level of effort reported in the five statutory and regulatory areas is less than 5%
  - Few commonalities among programs
  - Senior vs. non-senior personnel workload varies by program
  - Most people do not spend full time on any one compliance-related activity
  - Most activities performed for the Service (v. OSD, Congress)
- Emphasis appears to be on process (implementation) rather than the intent of a statute or regulation
  - Many of these activities need to be accomplished regardless of whether or not they are mandated
- Very few serious complaints were reported about policy or process within these five statutory or regulatory areas
  - Reported hours are not correlated with complaints

**Little evidence of actual consequences to program**

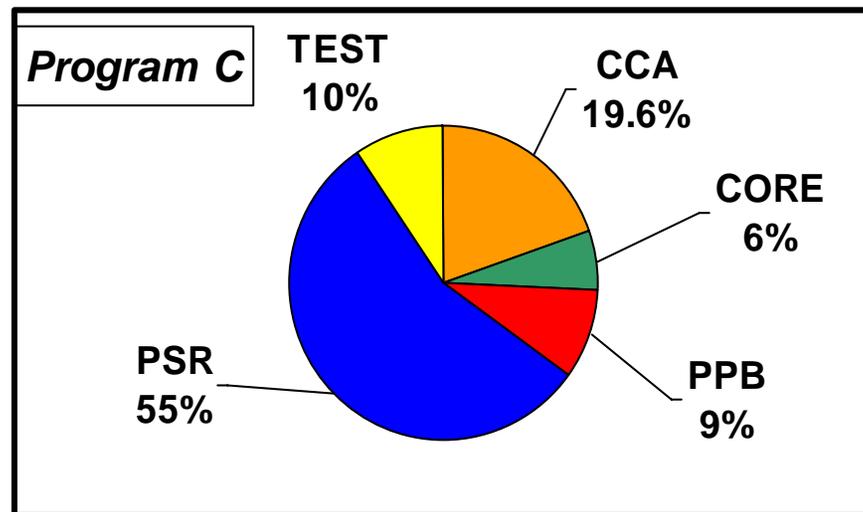
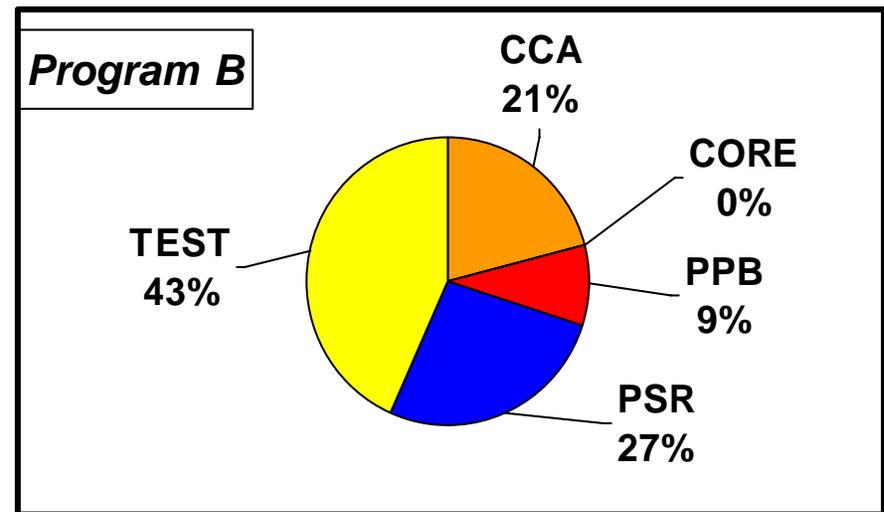
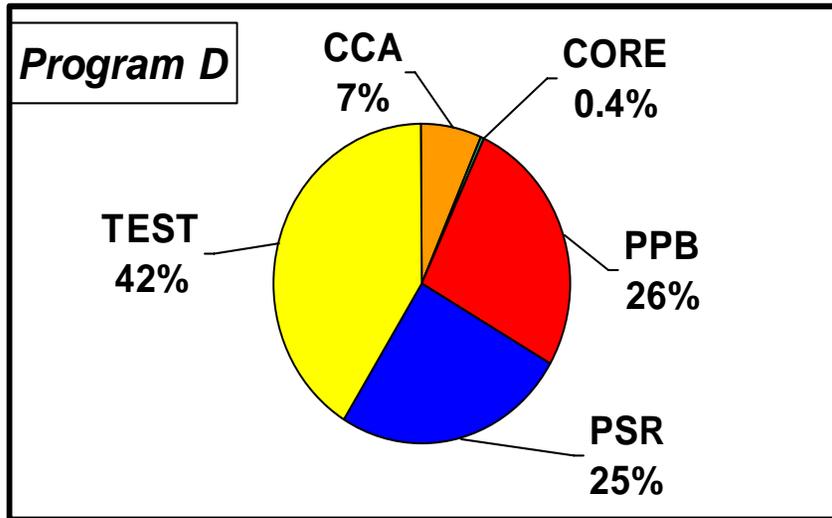
# Average Level of Effort Represents Less Than 5% of Total Program Office Personnel



# Distribution of Time Spent Across Regulatory Areas Is Program-Unique (1)



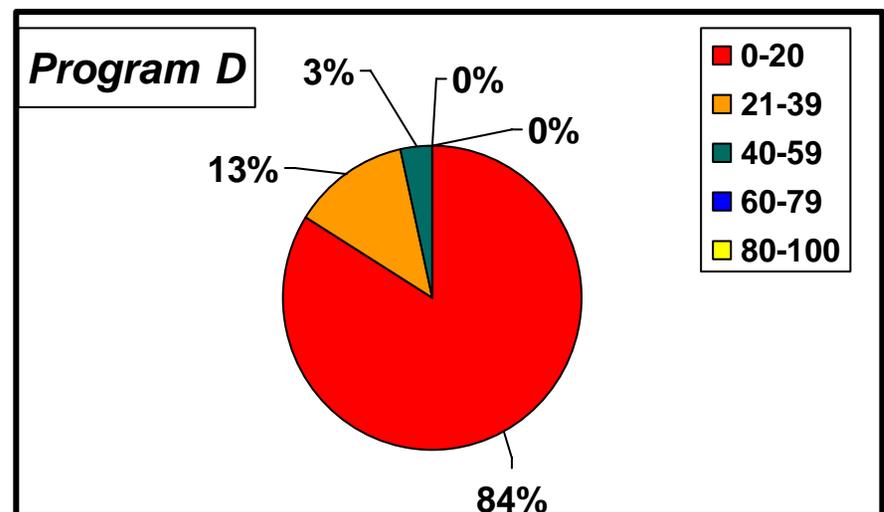
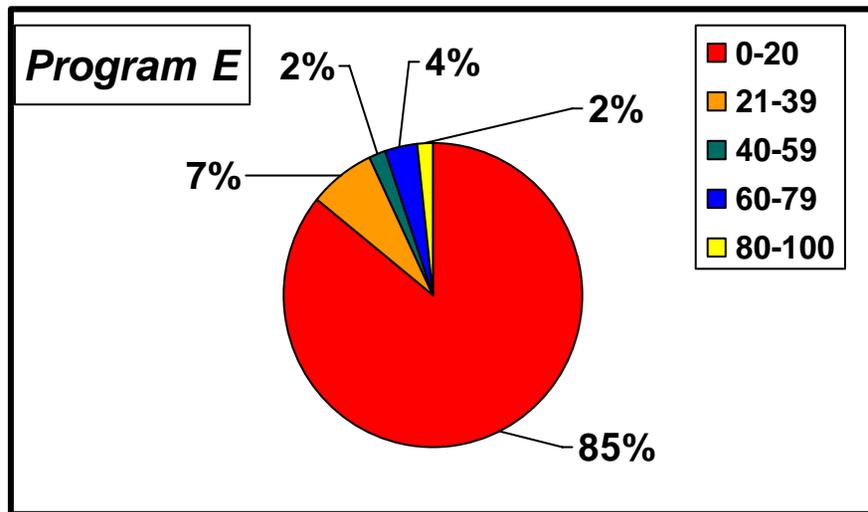
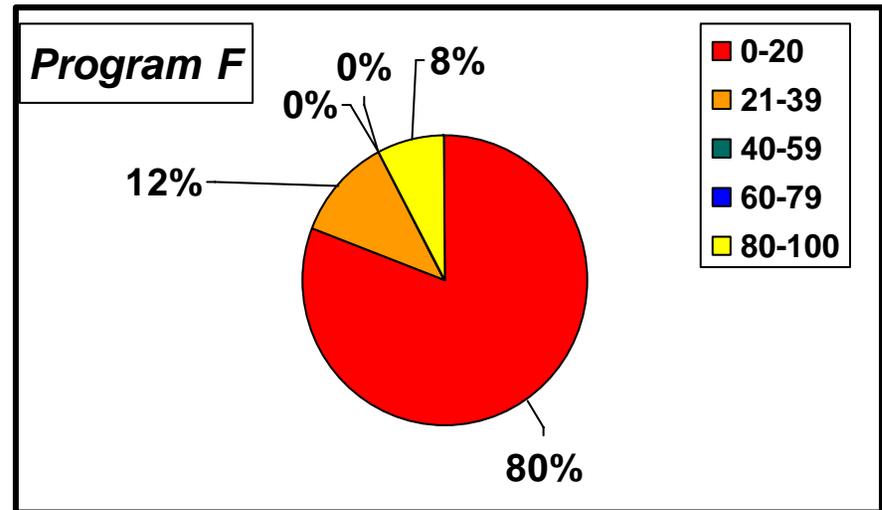
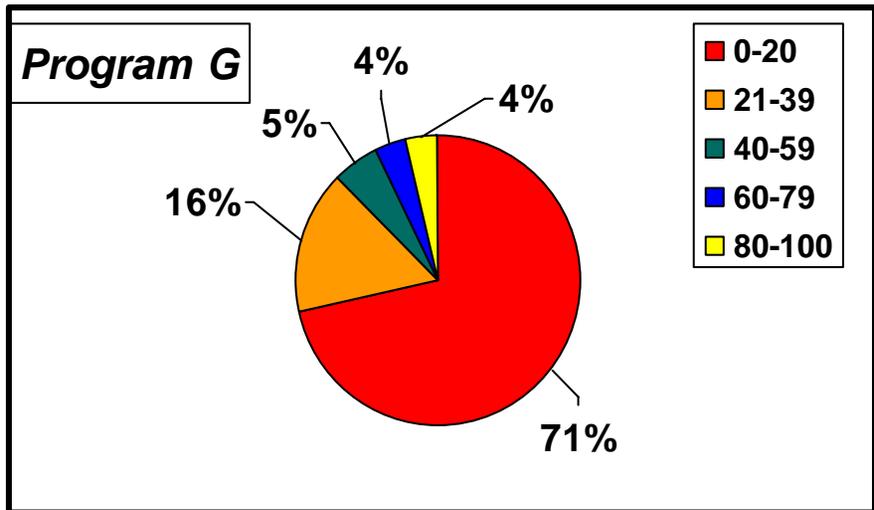
# Distribution of Time Spent Across Regulatory Areas Is Program-Unique (2)



# Most Activities Were Performed for Service Organizations

	<i>Prog G</i>	<i>Prog F</i>	<i>Prog E</i>	<i>Prog D</i>	<i>Prog C</i>	<i>Prog B</i>	<i>Prog A</i>	<i>Total</i>
<i>PEO/PM</i>	269	112	179	242	312	175	201	1490
<i>Service</i>	394	122	227	212	118	5	350	1428
<i>OSD</i>	118	27	128	96	44	65	221	699
<i>Service Acquisition Staff</i>	37	7	116	30	44	14	69	317
<i>Resource Sponsor</i>	27	2	51	25	23	4	49	181
<i>OSD AT&amp;L Staff</i>	30	1	36	3	42	4	57	173
<i>GAO</i>	13	9	29	84	10	0	14	159
<i>Operational Test Agency</i>	15	0	0	3	18	61	23	120
<i>Tax or Levy from PEO/PM</i>	27	4	10	21	5	22	13	102
<i>DOT&amp;E</i>	8	3	1	13	7	45	17	94
<i>Service Test Oversight Agency</i>	9	4	0	3	9	3	13	41
<i>DoD CIO/C3I</i>	0	0	2	0	11	9	3	25
<i>Service CIO/C3I</i>	0	11	4	0	2	1	4	22
<i>Other DoD</i>	0	1	0	0	0	1	0	2
<i>Unknown</i>	4	8	18	1	4	1	27	63
<i>Other (Congress = 50)</i>	130	33	70	70	56	72	98	575

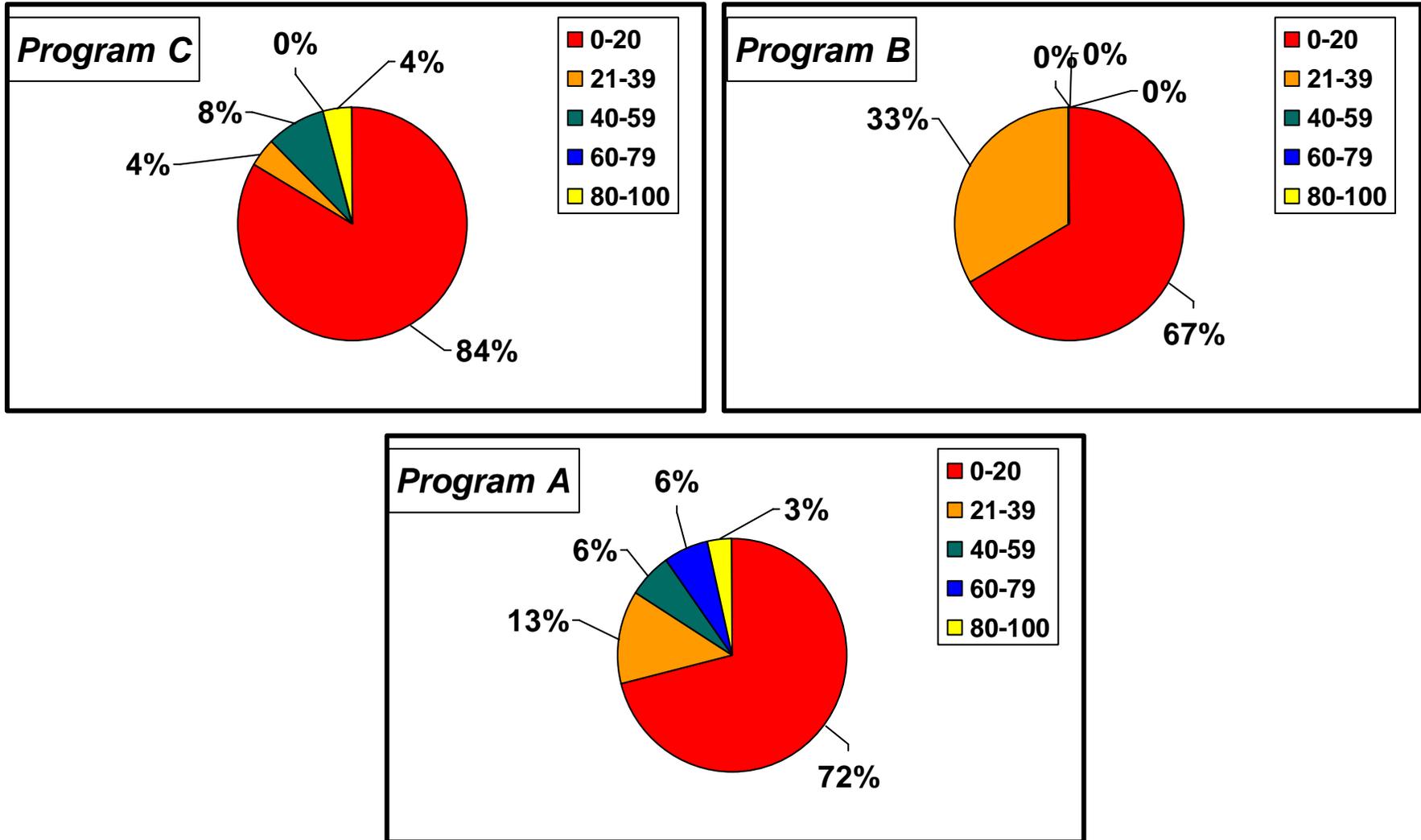
# Most People Spend Less Than 20% of Their Time on Compliance (1)



**RAND**

*Note: Legends show % of time spent, calculated as the sum of total hours reported divided by an individual's total available time over 26 periods* Final brief -18 17 November 2005

# Most People Spend Less Than 20% of Their Time on Compliance (2)



**RAND**

*Note: Legends show % of time spent, calculated as the sum of total hours reported divided by an individual's total available time over 26 periods* Final brief -19 17 November 2005

# ***The Basic Results Are Fairly Robust***

## ***Sensitivity Analysis***

***Baseline result: 0.8% - 4.4% (lowest – highest program)***

<b>Issue</b>	<b>Action</b>	<b>Effect</b>	<b>Result (% compliance time)</b>
<b>Self-close users should have provided data</b>	<b>x2</b>	<b>“doubles” number of users providing data</b>	<b>1.7% - 8.8%</b>
<b>Data provided is too low</b>	<b>x3</b>	<b>Increases reported data by factor of three</b>	<b>2.5% - 13%</b>
<b>More people should have participated</b>	<b>x4</b>	<b>Includes ~75% of program staff*</b>	<b>4% - 18%</b>

# *Selected Activities Associated with Complaints*

<b>Nugget Name</b>	<b>Program</b>	<b>Number of Personnel</b>	<b>Number of Senior Personnel</b>	<b>Number of Periods</b>	<b>Number of Hours</b>	<b>Majority of Hours</b>
<b>Program Reviews</b>	<b>E</b>	<b>26</b>	<b>12</b>	<b>18</b>	<b>880</b>	<b>3 NS = 39%</b>
<b>UID</b>	<b>E</b>	<b>8</b>	<b>4</b>	<b>13</b>	<b>552</b>	<b>1 NS = 93%</b>
<b>Unfunded Requirements</b>	<b>G</b>	<b>11</b>	<b>6</b>	<b>16</b>	<b>338</b>	<b>3 NS = 79%</b>
<b>IT Approval</b>	<b>C</b>	<b>7</b>	<b>3</b>	<b>18</b>	<b>336</b>	<b>1 NS = 56%</b>
<b>Congressional Reduction</b>	<b>D</b>	<b>7</b>	<b>4</b>	<b>16</b>	<b>181</b>	<b>1 NS &amp; 1 S = 56%</b>
<b>Information Support Plan (ISP)</b>	<b>C</b>	<b>10</b>	<b>7</b>	<b>18</b>	<b>135</b>	<b>1 NS &amp; 1 S = 48%</b>
<b>Dashboard</b>	<b>D</b>	<b>4</b>	<b>3</b>	<b>14</b>	<b>68</b>	<b>1 NS &amp; 1 S = 96%</b>

# ***Preparation for DAB IPR***

***(6 Sep 04 thru 4 Sep 05)***

***Program A***

<b>Area</b>	<b>Hours Reported</b>
<b>Clinger-Cohen</b>	<b>1</b>
<b>Program Planning and Budgeting</b>	<b>1308</b>
<b>Program Status Reporting</b>	<b>1625</b>
<b>Testing</b>	<b>6</b>
<b>Total</b>	<b>2940</b>

***12 people (5 senior-level), 26 periods; total program staff is 130  
3 people (1 senior-level) account for nearly 73 percent of reported hours***

# *Preparation for DAB IPR*

**Program A**

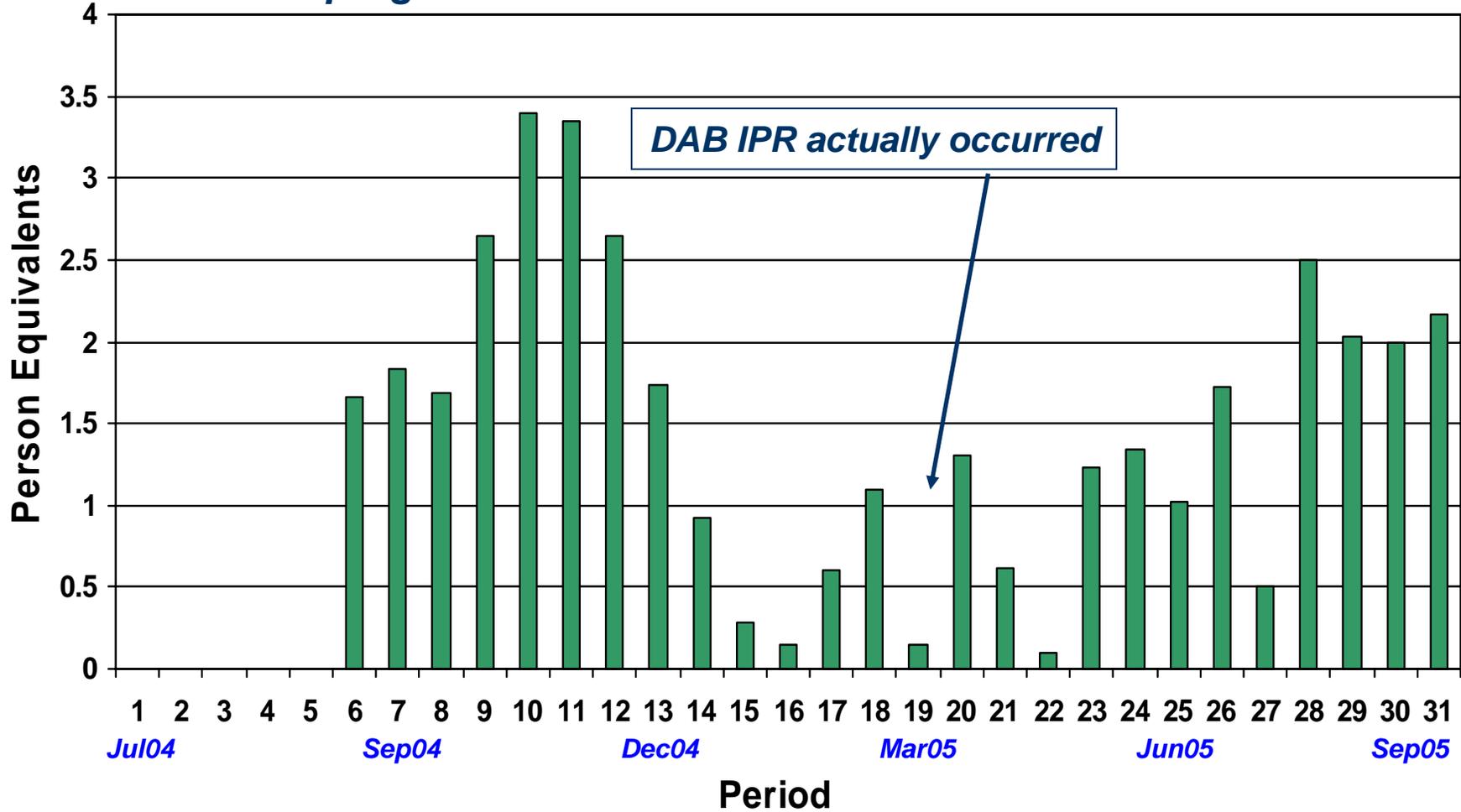
## *A Different View*

<b>Area</b>	<b>Hours Reported</b>
<b>Cost estimating (LCCE, EAC)</b>	<b>1708</b>
<b>CARD</b>	<b>648</b>
<b>Schedule rebaselining (IMS, IRA)</b>	<b>414</b>
<b>Meeting preparation (IIPT, OIPT)</b>	<b>101</b>
<b>Acquisition strategy</b>	<b>23</b>
<b>Other</b>	<b>46</b>

*What's missing? (e.g., test planning, budget development, service reviews)*

# DAB IPR Effort Over Time

Total program staff is 130



# ***DAB IPR***

## ***Consequences***

- **Significant focus (and level of effort) within program office**
- **Forcing function**
  - **Decisions about system capabilities**
  - **Decisions about acquisition strategy**

# ***Restructure of a Major Modification***

## ***Strategy change: Procurement to RDT&E dollars***

<b>Statute or Regulation</b>	<b>Number of Hours</b>
<b>Clinger-Cohen Act (CCA)</b>	<b>0</b>
<b>Core Logistics/50-50 Split</b>	<b>40</b>
<b>Program Planning and Budget (PPB)</b>	<b>522</b>
<b>Program Status Reporting (PSR)</b>	<b>518</b>
<b>Testing</b>	<b>200</b>
<b>Total</b>	<b>1,280</b>

***17 people (9 senior-level), 22 periods; total program staff is 250  
4 people (2 senior-level) account for nearly 70 percent of reported hours***

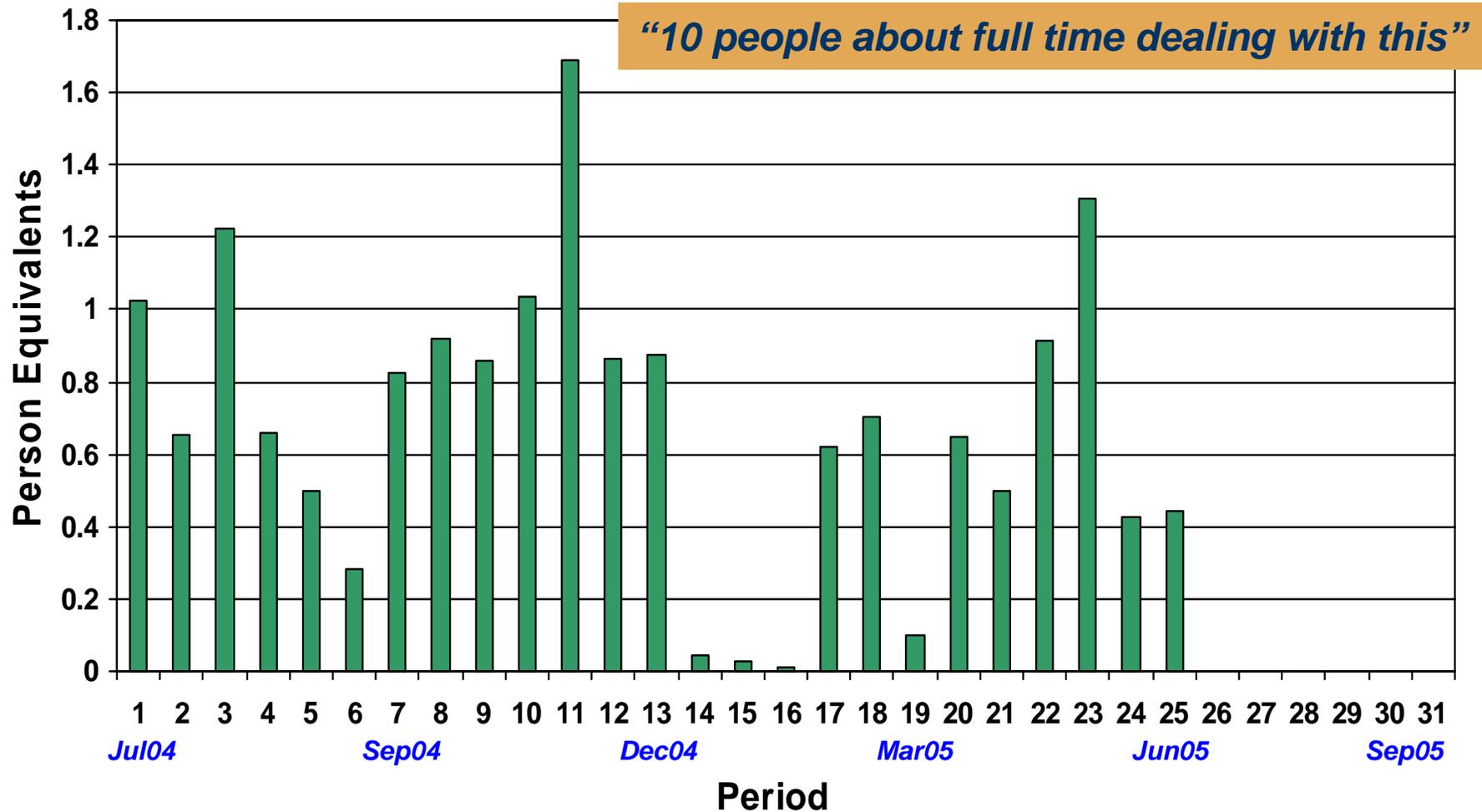
# ***Restructure of a Major Modification***

## ***A different view***

<b>Major Activities</b>	<b>Number of Hours</b>
<b>Cost Analysis</b>	<b>274</b>
<b>Color of Money</b>	<b>258</b>
<b>Information Development</b>	<b>148</b>
<b>Funding Drills</b>	<b>132</b>
<b>Program Planning</b>	<b>54</b>
<b>Test Planning</b>	<b>38</b>
<b>Other (budget, EVM, AoA, ORD)</b>	<b>376</b>

# Restructure of a Major Modification

Total program staff is 250



# ***Restructure of a Major Modification***

## ***Consequences***

- **Program churn**
  - Major reprogramming activity
  - All elements of program affected
  - Revised acquisition strategy includes increased oversight and reporting
- **Program manager reported to SAE:**
  - Schedule slip: 22 months (9 funding profile, 7 funding color, 6 test)
  - Cost growth: \$131M
    - \$46M for prototypes
    - \$37M for operational test
    - \$48M additional overhead
- **Purchase additional units to keep production base warm**

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# ***De-Bunking a Myth***

***Program office activities are governed by a myriad of statutes and regulations***



***These statutes and regulations do place constraints on programs***



***Program offices do not spend a significant amount of time complying***



***Very little of that compliance time is perceived as burdensome***



***There are few consequences to programs due to that burden***

# ***Summary of Findings***

- **Total level of effort reported in the five statutory and regulatory areas is less than 5% of total available program office hours**
  - **Program offices do not spend the majority of their time complying with statutes and regulations**
  - **The vast majority of that compliance time is not perceived as burdensome**
  - **There was only a single case of cost, schedule, or performance consequences due to compliance activities**
- **The issue is implementation, not intent, of statute or regulation**
  - **Many of these compliance activities would need to be accomplished in some form regardless of the regulatory environment**

**There remains a mismatch between a perception of burden and actual consequences at the program level**

# ***So, What Else Are They Doing?***

- **Statutory/Regulatory Areas Not Captured**
  - **FMS**
  - **Contracting (FAR and DFAR, TINA, CICA)**
  - **Technical Data**
  - **Logistics (non-Core)**
- **Other**
  - **Training**
  - **Traveling**
- **Managing/Executing the program**

# ***Policy Implications***

- **Balance the flexibility needed to address program-unique circumstances with the clear guidance necessary for effective implementation**
- **Technical support to program offices will improve implementation and minimize burden**
- **Expect that the introduction of new policies or processes will cause a spike in program office activity**
- **There are few efficiencies to be gained at the program office level from acquisition reform or streamlining**



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## *Questions/Discussion*

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