

The logical outcome of a compliance failure—either actual or alleged—is a legal proceeding, normally followed by a settlement of some kind or another. Today's article focuses on such topics.

### A-12 Program Termination Legal Proceedings Enter Second Decade of Litigation

The termination for default of the A-12 Avenger stealth attack fighter is a poster child for everything that was wrong with the 1980's fascination with fixed-price development contracting. As the USA Today recently [reported](#) —

The Navy contracted in 1988 with General Dynamics and McDonnell Douglas Corp. (now Boeing) to develop the A-12, but after delays and conflicts over costs, terminated the contract for default in 1991 and sought return of more than \$1 billion paid. The defense giants brought their own claim, arguing they were stalled by the government's reluctance to turn over secret technology needed for the project.

The case is currently before the Supreme Court of the United States. What makes the current round of litigation interesting is that the U.S. Government invoked its "state secrets" argument, which essentially takes the position that certain information cannot be disclosed in court because doing so would harm national security. Consequently, companies suing the Federal government are denied access to otherwise discoverable evidence, cannot meet their burdens of proof, and see their cases dismissed.

As USA Today reported—

General Dynamics and Boeing say that while there are times the state-secrets privilege is legitimately invoked, in this case it was used for a litigation advantage ... the companies contended that by raising the state-secrets privilege and limiting access to documents, the government prevented them from proving they were not responsible for delays and should not have to repay the money. Lower courts ruled for the government.

### Army Contracting Officer Sentenced

In November 2010, we [told you](#) about the former Army Contracting Officer, Major Roderick Sanchez, who pleaded guilty to accepting more than \$200,000 in bribes in return for steering Army contracts to (unnamed) foreign companies. On January 19, 2011, the U.S. Department of Justice [announced](#) that Sanchez had been sentenced to 60 months in prison, forfeiture of his ill-gotten goods, and payment of a \$15,000 fine.

### Former Northrop Grumman Engineer Sentenced to 32 Years

The DOJ issued a [press release](#) telling us that Noshir Gowadia (age 66) had been sentenced to 32 years in prison “for communicating classified national defense information to the People’s Republic of China (PRC), illegally exporting military technical data, as well as money laundering, filing false tax returns and other offenses.”

According to the DOJ—

On Aug. 9, 2010, following six days of deliberation after a trial spanning nearly four months in Honolulu, a federal jury found Gowadia guilty of five criminal offenses relating to his design for the PRC of a low-signature cruise missile exhaust system capable of rendering a PRC cruise missile resistant to detection by infrared missiles.

The jury also convicted Gowadia in three counts of illegally communicating classified information regarding lock-on range for infrared missiles against the U.S. B-2 bomber to persons not authorized to receive such information. The B-2 bomber is one of America’s most critical defense assets, capable of utilizing its stealth characteristics to penetrate enemy airspace and deliver precision guided weapons on multiple targets. Gowadia was also convicted of unlawfully exporting classified information about the B-2, illegally retaining information related to U.S. national defense at his home, money laundering and filing false tax returns for the years 2001 and 2002. ... ‘Mr. Gowadia went beyond disclosing information to China, he performed defense work in that nation with the purpose of assisting them in their stealth weapons design programs.’

### Contractor Employee Sentenced for Bribery

We have posted our [thoughts](#) on Camp Arifjan (Kuwait) before. On January 25, 2011, the DOJ [announced](#) that Dorothy Ellis (age 53) had been sentenced to 37 months in prison for “participating in a conspiracy to pay \$360,000 in bribes to U.S. Army contracting officials stationed at a U.S. military base in Kuwait.” As the DOJ reported—

The case against Ellis arose from a corruption probe focusing on Camp Arifjan, a U.S. military base in Kuwait. As a result of this investigation, 16 individuals, including Ellis, have been charged, of which 14 have pleaded guilty. These individuals include Ellis’s former boss and military contractor, Terry Hall, and several U.S. Army contracting officials, including former Army Majors James Momon and Christopher Murray. ... Ellis admitted that she participated in the bribery scheme by providing Momon and Murray access to secret bank accounts established on their behalf in the Philippines to enable Hall and others to transfer bribe payments to them. Ellis also admitted that, to further Hall’s unlawful dealings with Momon, she obtained confidential Army contract pricing information from Momon that was designed to give Hall an unlawful advantage in the bidding process for an ice contract from the DoD.

We could have added another story, about Raytheon’s latest foray before Judge Firestone in the U.S. Court of Federal Claims. But we thought, “why sully this great litany of criminal acts with a dreary bit about CAS 413 and segment closing pension adjustments?” We know you’ll thank us for that.