

# Commentary on: Kohler's "Recapturing What Made the NRO Great—Updated Observations on 'The Decline of the NRO'"

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*By Dennis Fitzgerald*

In Robert Kohler's updated critique (Kohler 2005) of what he earlier described as the decline of the National Reconnaissance Office (NRO), he made a number of recommendations for improving the management of the NRO and for redefining the Central Intelligence Agency's (CIA's) role in the NRO.<sup>1</sup> While I do not intend to address each of his points—many of which I agree with—I believe several need clarification. This is particularly true of his central point, which argues that the NRO does not fund programs realistically, thereby causing cost overruns and schedule slips. On this issue of funding, and several other of his related issues, I offer my comments as I have considered them within the context of the events of the last ten years.

## Issue of Funding The NRO Programs

Kohler (2005) stated that the NRO is unwilling to fund programs adequately. This assertion ignores the fundamental changes imposed upon the NRO in the decade from 1995 to 2005. In 1995 the NRO had a funding crisis. The NRO was found to have accumulated \$3.8 billion in forward funding (i. e., unused margin) across all NRO programs.<sup>2</sup> The timing could not have been worse. The U.S. was involved militarily in Bosnia during a period of declining defense budgets.

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<sup>1</sup> Editor's Note: The 2005 Kohler update that Fitzgerald cited above appears on p. 51 of this issue of the *Journal*, under the title, "Recapturing What Made the NRO Great—Updated Observations on 'The Decline of the NRO.'" This Kohler article is an update his earlier 2002 critique that he originally published in *CIA's Studies In Intelligence*, and we reprinted on p. 35 of this issue of the *Journal*.

<sup>2</sup> Prior to 1995, the long-standing practice within individual NRO programs was to carry forward from one fiscal year to the next funds that had been appropriated and obligated, but not spent. A congressional review of NRO financial records between 1991-1995 revealed that the aggregate amounts were neither reported to the NRO comptroller, nor shared with congressional oversight committees. Under the accounting system of the time, only the individual program offices tracked how these funds were being spent (Laurie, 2001).

The discovery that a government agency had amassed \$3.8 billion was greeted in Congress with both outrage and a sense of relief. There was outrage that the funds had been accumulated, but there was a sense of relief these newly identified funds could be reallocated to solve a funding gap related to ongoing military operations in Bosnia. At the same time, Director of Central Intelligence (DCI), John Deutch, publicly fired the incumbent NRO Director and Deputy Director (DNRO and DDNRO), and installed Keith Hall as the new DNRO with a mandate to get the NRO back on firm financial footing (U.S. Congress 1996, Weiner 1996).

**Resolution of Funding Crisis.** As one of his first acts toward achieving this objective, Keith Hall hired John Nelson to be Chief Financial Officer (CFO). Nelson's review of the NRO's budget approach revealed two problems. The first problem was that the NRO possessed no accounting tools to monitor NRO budget execution; the second problem was related to the way the NRO built budgets in the first place. From the accounting standpoint, the NRO had a hodgepodge of budgeting systems derived from those used by the former Programs A, B, and C (Laurie, 2001). The NRO had no way of reporting execution metrics traditionally done by Department of Defense (DoD). Nelson set up an NRO accounting system that enabled the NRO to monitor its budget execution and to report spending against metrics and standards similar to those used by other agencies, in particular the Department of Defense (DoD).

This new accounting system addressed the first problem by replacing NRO-unique forward funding metrics with DoD-like execution standards, essentially removing any capability to accumulate margin. Once the NRO started being evaluated against DoD's execution standards, any margin was lost to the Community Management Staff (CMS), Office of Management and Budget (OMB), or Congress, who would reallocate the excess funds to other agencies.

The new accounting system also addressed the problem of how the NRO developed its budget. Prior to 1995, the NRO built budgets by taking Contractor estimates and adding margin, typically 20-to-40-percent. After the forward funding revelations in 1995, the NRO moved to independent cost estimates (ICEs) and budgeted at slightly over the 50 percent probability estimate, a practice that continued through 2005.<sup>3</sup> The cumulative effect of greater budget visibility, comparisons to DoD metrics, and budgeting to an ICE was that NRO forward-funding margins disappeared, which was DNRO Keith Hall's goal.

**New Problems.** Meeting that goal of eliminating the margins was not without consequences. Budgeting at the 50 percent probability estimate meant that programs with perfect ICEs still had only a little better than even chance of staying within budget. The imprecision associated with the ICE on a new design program only drove down the

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<sup>3</sup> An Independent Cost Estimate (ICE) is a budget estimate of a system's cost that is prepared external to the NRO directorate that is conducting the system's acquisition. It is designed to aid the procurement process.

cost probability curve until cost overruns were no longer a statistical probability; they became a certainty.

Without any margin, the program from which the money was taken would inevitably experience cost overruns after the money was moved. Thus, sick programs were fixed by making healthy programs sick. Nearly all NRO programs began to miss expected delivery dates. It was during this time that the NRO acquired its reputation as the producer of costly satellite systems that tended to drain resources away from the overall intelligence budget (US Commission, 2005).

The absence of margin and the certainty of cost overruns presented the NRO with a reality of not being able to fund programs adequately. Another result of the 1995 funding crisis was the NRO lost budget autonomy; whenever a program exceeded its funding limits, we had to go back to Congress to get permission to move money from some other program in the NRO to fix the problem.

Adding to the financial pressure between 1997 and 2001, the CMS took \$3 billion out of the NRO budget to pay for covert action in the Central Intelligence Agency (CIA) and infrastructure expenses at the National Security Agency (NSA) and the National Geospatial-Intelligence Agency (NGA). This further lengthened NRO schedules and further confirmed the negative view held by some oversight authorities.

By the spring of 2001, the NRO was headed toward the cancellation of a number of programs. However, supplemental and increased funding in response to the terrorist attacks of 9/11 saved these programs. But CMS' reallocation of funds illustrates a continuing problem: whenever the Intelligence Community (IC) finds itself with a financial crunch, the NRO tends to be the "piggy bank" of choice. The reason for this is that the impact on NRO activities is not immediately apparent when compared with the impact on other components of the Intelligence Community.

If CMS takes a dollar out of the budgets for CIA, NGA, or NSA, there is an immediate impact. Some intelligence is not going to be on the President's desk the next day. Neither the White House nor Congress have regarded this as an acceptable option. The 2005 report on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction—which principally blamed the lack of good information and analysis errors for the IC's mistaken pre-war judgments about Iraq's weapons programs—underscored this point (US Commission, 2005).

Alternatively, if CMS takes money out of the NRO, there is no visible impact tomorrow when the President looks for his intelligence. However, five years later when a needed satellite capability cannot be delivered, the NRO customers have a problem. As the WMD Commission (2005) conceded, satellite surveillance systems are costly, but they provide crucial battle space preparation and targeting information for the military, and they can gather WMD intelligence that cannot be obtained any other way.

**The Core Question of Funding Margin.** Kohler (2005) stated that all NRO programs must have adequate margin—at least 30-to-50-percent—up front, and that budgeting new NRO programs at the 80 percent ICE would accomplish this. This suggestion is not new. Tom Young ran a Defense Science Board Study (Teets, 2004) that looked at budgeting for both covert and open space programs to the 50 percent probability estimate. He concluded that the practice did not leave the program manager with sufficient margin to fix the inevitable problems that occur with first-of-a-kind satellite systems. Congress accepted that conclusion but asked about the ramifications of budgeting new NRO programs at the 80 percent probability estimate. When they were told additional funding would have to be added to the NRO or some programs would have to be cancelled, Congress dropped their proposal. After having budgeted to the 50 percent probability estimate for nearly ten years, the NRO could not—and still cannot—change overnight.

**The Real Funding Problem.** The current funding problem is not, as Kohler (2005) suggested, that the NRO does not budget individual programs responsibly (in light of execution standards), but that the NRO does not have the flexibility required to manage its programmatic portfolio effectively.

Budgeting each program to an ICE can provide a program manager the average of what other program managers have required to deliver products of equivalent complexity. That is reasonable only if I, as the senior program manager, can move dollars among programs. In any given year, I undoubtedly would have projected events that do not happen. And I also would have failed to project events that do happen (usually funding matters). As long as I have flexibility across the programmatic portfolio, I could shift funds to where they are needed. But the NRO does not have that flexibility. The 26 expenditure centers end up as 60 different budget control lines, and the NRO has to get each of those 60 exactly right. Further, the NRO has to get the projection for all 60 exactly right about a year in advance.

**A Solution.** Former DNRO Peter Teets, asked Congress for a margin line item, unattached to any program, to address this problem in the FY-06 budget. At this writing, it remains to be seen if Congress will go along with this suggestion. Even if the NRO gets the margin line item, it still will be vulnerable to CMS (or ODNI) adjustments and its need to find money when one of the other National Foreign Intelligence Program agencies gets into trouble.<sup>4</sup>

In reviewing these crucial funding issues, I wish we could do what Mr. Kohler (2005) recommended. I would like to go back to the days of putting margin on contractor estimates and allowing unused margin to roll into the following fiscal year. Unfortunately, that chapter of NRO history closed in 1995, and it is unlikely CMS, DoD, and Congress will allow it to be reopened.

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<sup>4</sup> The Community Management Staff (CMS) is being subsumed into the Office of the Director of National Intelligence (ODNI).

## The Other Related Issues

In addition to the issue of margin, Kohler (2005) raised programmatic issues associated with killing programs, delivery schedule, presence of staff contract support, percentage of engineer staffing, and the role of the NRO staff. All of these are valid issues to raise; however, they are not matters that can be resolved by returning to the "good old days."

**Issue of Killing Programs.** Kohler (2005) pointed out the IC's inability to kill any program. He is correct. Every program in the NRO has a strong constituency either in DoD or the IC. Even 22-year-old crippled satellites are almost impossible to turn off. It is a testimony to the power of space-borne collection. It also demonstrates the continuous intelligence demand on NRO systems.

**Issue of Delayed Delivery.** Kohler (2005) noted that the NRO is delivering capabilities needed by the community now, years late. He characterized it as the IC's inability to set priorities, but there are more immediate reasons, some of which I already discussed above. There are three major factors that contribute to this complaint: first, the reality of inadequate margins force the NRO to move programs to the right; second, contractors promise more than they can deliver; and third, parts have proven to be unreliable. The parts factor is of most interest.

Parts, from components as simple as capacitors to components as complex as Heterojunction Bipolar Transistors (HBT) and Field Programmable Gate Arrays, have plagued the entire space industry.<sup>5</sup> The negative effect of their unreliability on program schedules is especially bad when they are found late in the assembly process. The origins of this problem go back to the mid-1990s, when in the interest of trying to economize, the government eliminated the military specifications (MILSPEC) requirements on parts. The MILSPEC on parts are now back in NRO programs of the 21<sup>st</sup> century.

**Issue of Staff Contract Support.** Kohler (2005) talked about the overwhelming presence of Federally Funded Research and Development Centers (FFRDC) and Systems Engineering and Technical Analysis (SETA) personnel in the NRO.<sup>6</sup> This is something for which Congress criticized the NRO in the late 1990s. As a result, the NRO took our SETA personnel level from roughly 7.8 percent of the total NRO budget in 1998 to about 5.5 percent of the total budget in 2005 and the NRO monitors these numbers on a monthly basis. The FFRDC staffing, which is nearly all Aerospace Corporation, has been constant at the NRO at 650 Full Time Equivalent (FQE) staffing for the six-year period from 1999 to 2005.

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<sup>5</sup> HBTs have traditionally been used for various microwave and high-speed digital applications, while field programmable gate arrays (FPGA) are processor components used in Electronic Warfare (EW) sensors.

<sup>6</sup> FFRDCs are established by the federal government and are principally financed by the Department of Defense (DoD) to perform or manage research and development programs. SETA refers to contractors supporting the NRO in various systems engineering roles.

**Issue of CIA Engineer Staffing.** Kohler (2005) complained that only 25 percent of the total CIA contingent in the NRO is engineers. The statistic is correct; however, the implication that the proportion of engineers to support staff has gotten out of balance is not. Who are the administrative support cadre? They are contracting officers, security, personnel, and Inspector General (IG), Legislative Liaison, and medical staff. When the NRO was organized as independent programs that were associated with parent organizations—i.e., Program A (Air Force), Program B (CIA), and Program C (Navy)—many of these functions were provided by the parent organizations. The Air Force's Los Angeles Air Force Station provided administrative support to Program A; The CIA's Langley Headquarters provided administrative support to Program B; and the Navy's Naval Research Lab provided administrative support to Program C.

When the Intelligence Community made the decision to abolish Programs A, B, and C, and to consolidate the NRO activities in Northern Virginia at the Westfields complex, the parent organizations pulled back their support.

When Mr. Kohler was in the NRO, the IG position was a part-time job for one person. Today it is 62 people, its size largely directed by Congress. In Mr. Kohler's time, Congressional contacts were few, and the legislative liaison function was performed by the DDNRO. In 2005 contacts are daily, mandating a staff of six. During the era of Program B, CIA paid the invoices for the Office of Development and Engineering activities in support of the NRO mission. In 2005 that function is accomplished by the NRO administrative staff.

In the mid-1990s, it became apparent that much of the NRO infrastructure support formerly provided by the Air Force, CIA, and the Navy would not be a part of the NRO consolidation at Westfields. As a result, the then NRO Director of MS&O, Roger Marsh, got Congress to appropriate funds for 800 administrative personnel to perform the support functions. The CIA was generous to allow the NRO to use the CIA personnel system to hire many of these people, and the NRO continues in 2005 to reimburse CIA for their salaries and benefits.

**Issue of the Role of the NRO Staff.** Kohler (2005) suggested a review of the size and relationship of the NRO staff to NRO program managers. This is something the NRO IG does on a regular basis. But I believe that what Mr. Kohler is hinting at is that some NRO program managers have complained about the apparent power and decision authority of NRO staff components, especially the staff's budget czars in Business Plans and Operations (BPO). Strong budget authorities always are looked at with a combination of suspicion and resentment. Mr. Kohler forgets how others viewed his budget czars. As DDNRO, I keep the BPO staff informed and involved in all program decisions because all program decisions also are budget decisions. What program managers might overlook is that BPO does not cut any program's budget on its own. The BPO merely lays out the alternatives. It is the DNRO who always makes the final decision.

## Conclusion

In closing this commentary of Kohler's (2005) "postscript critique" of the NRO, I would like to thank Mr. Kohler for his thought-provoking article. With the passage of the Intelligence Reform and Terrorism Prevention Act of 2004, and the recommendations of the Commission investigating the Intelligence Community's capabilities to detect WMDs, the IC undoubtedly will undergo change as it transitions into a more collaborative and integrated group of agencies, flexible enough to meet an ever-changing threat environment. In this transition, dialogues such as this one can help facilitate a constructive exchange of ideas on how to keep the NRO a creative and vibrant organization.

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