

The CIA: Transportation Study Stirs New Charge of Impropriety

On top of charges that the Central Intelligence Agency has spied illegally on Americans, the CIA is also being accused of snooping inappropriately on the civilian R & D programs of foreign countries. Former CIA officials defend the agency's interest in civilian R & D as legitimate and benign, and the new accusation seems to have been received mainly with bemusement in Europe, where transportation technology—not usually thought of as worthy of cloak and dagger work—was one subject of interest to the CIA.

Even so, Senator Richard S. Schweiker, the Pennsylvania Republican who stirred up the new charges, and who sits on a new Senate panel that will look into CIA activities, says the agency seems to have been running "industrial espionage operations" that exceeded its charter.

Schweiker's evidence consists of a letter and a seven-page, single-spaced memo that the CIA sent to a private U.S. firm on 26 November soliciting a proposal for a contract to study foreign ground and air transport tech-

nology that may "provide the most serious economic competition for the U.S." in the mid- to late 1980's. An aide to Schweiker declined to identify the addressee, except to describe the company as "an engineering consulting firm." A cover memo which the senator does not plan to release indicates that the CIA sent similar letters to four or five U.S. firms with an expertise in transportation R & D. The letters are unclassified but ask that "knowledge of the solicitation be limited to a need to know basis within your company."

Schweiker says he doesn't question the government's interest in foreign transportation R & D, but he says the CIA's proposed study leaves some important questions unanswered. Why, for example, wasn't it working through the Commerce or Transportation departments? Who was supposed to receive the information and for what

Battelle Memorial Institute Settles Up with IRS and State on

Two decisions affecting the legal status of Battelle Memorial Institute (BMI) have left Battelle poorer, but, if not wiser, at least no longer in suspense. The decisions attracted surprisingly little national notice even though they involve immediate financial settlements totaling \$126.8 million, require significant modifications in the operations of the big, private, nonprofit research organization, and may well have important long-term implications for similar organizations.

Last month came announcements that (i) long negotiations with the Internal Revenue Service (IRS) had resulted in Battelle's losing its tax-exempt status and (ii) agreement had been reached with the Ohio Attorney General on settlement of a lawsuit which grew out of charges that Battelle trustees and officials have not properly carried out the terms of the will which created BMI (*Science*, 13 December).

In reaching agreement with the IRS after negotiations dating back to 1961, Battelle paid the government \$46.8 million in taxes and interest, thus squaring accounts to the end of 1973.

Under the agreement with Attorney General William J. Brown, Battelle's past obligations to outside charities are set at a total \$80 million. In addition, a formula is set governing distribution of funds to Ohio charities in the future under terms of the will of BMI founder Gordon Battelle. (Battelle is headquartered in Columbus but operates major facilities in other parts of the United States and abroad.)

This all assumes that the accord reached by Battelle and the Attorney General is accepted by various courts involved in litigation which has been in progress since 1969. The agreement will presumably become operative if approved by the local county court. The issue has spawned other cases, but principal figures in these actions were present at a news conference called to discuss

the settlement and apparently concur on the arrangements. (The agreement itself seems to have inspired a new suit filed by a Columbus lawyer on behalf of the local citizenry claiming damages totaling some \$800 million, so a few loose ends seem to remain.)

What effect this financial one-two punch will have on Battelle is the obvious question. The total assets of BMI and its subsidiaries were put at \$285 million last year. This includes the value of land and facilities and it is estimated that the settlement will reduce the value of Battelle's investment portfolio to some \$28 million.

Battelle's income is generated principally by payments for contract research performed for industry and government—Battelle Columbus Laboratories last year did \$57 million in such work. The assumption is that BMI's capacity to attract and perform this sort of research and development will not be seriously impaired.

What clearly will be affected is the research supported by Battelle internal funding. In recent years a total of about \$20 million annually has been spent on capital expenditures and institution-sponsored R & D. In the latter category, \$6.5 million was spent in 1973, \$10 million in 1974, and \$6.4 million is budgeted for this year. Some cutbacks in this category seem inevitable.

Asked in a news conference whether the changes required by the two decisions would result in layoffs, Battelle President Sherwood L. Fawcett replied that some layoffs might prove necessary, but that he hoped not. He said that this year's budget was drawn up to take into account the general terms of the settlement. He also said that efforts are being made to find outside support for projects now internally funded. Some transfers of persons doing such research to contract research is expected.

One provision of the agreement is a requirement that 51 percent of Battelle activities be located in or near

purpose? Was it a veiled solicitation for industrial espionage?

The proposal asks for a broad, 1-year survey by two or three persons of transportation R & D in France, West Germany, Japan, Canada, and the Soviet Union. Prime areas of interest are said to be high-speed ground and water transport technology, including tracked air-cushion vehicles and magnetic levitation, and cleaner, more efficient automobile engines. Along the way, the contractor is supposed to identify key institutions and research personnel.

The rationale for all of this, the CIA says, is that economic, ecological, and other considerations "may drastically alter future ground and air transportation systems as we know them today." The United States traditionally has been the world's largest producer of ground and air transport systems but much of

the work on new technologies is being done abroad. "Thus the U.S. may be faced with competitive threats . . . evolving from rapid technological advances in other countries." The memo concludes that "important U.S. industrial sectors may be detrimentally affected."

The solicitation emanated, *Science* learned, from the CIA's Office of Scientific Intelligence, an analysis unit on the "overt" side of the agency that is broadly responsible for keeping an eye on civilian and military R & D. Among the OSI's functions is feeding assessments of foreign R & D programs into the encyclopedic national intelligence surveys that the CIA keeps on the economy, geography, politics, and military capability of each country.

Repeated inquiries to various parts of the Commerce and Transportation departments produced no evidence that

either agency regularly or systematically looks at the potential economic impact of foreign R & D, and one former CIA official questions whether they are capable of such analysis. Ray S. Cline, a former deputy director who did much to set up the CIA's large economic analysis staff in the 1950's, contends that "no other research staff in the government has the CIA's capability. . . . What Schweiker doesn't seem to understand is that this requires the techniques of an intelligence analysis unit, not just a bunch of data clerks."

During a 2-year stint in the State Department that ended last year, Cline said he tried to get money for economic analysis "so the CIA wouldn't have to do it," but his efforts were largely unavailing.

Herbert Scoville, Jr., a former deputy director who was overseer of the OSI during the 1960's, said that the trans-

Tax Status and Founder's Will, Now Hopes to Settle Down

Columbus. At present, Battelle appears able to live comfortably with this requirement. BMI, however, has major operations in the state of Washington, where it is contractor for the former Atomic Energy Commission Hanford facility, and in Geneva and Frankfurt, where its laboratories make it the leading multinational research organization. The geographical restriction could foreclose some options in the future.

From Battelle's point of view the agreement with the Attorney General is particularly welcome in settling the question of jurisdiction over its affairs. The Attorney General's office rather than the county probate court gets authority. In a statement on the decision Fawcett remarked of the word on jurisdiction that "Hopefully, it will provide a legal bulwark against future litigation."

Battelle officials are also putting a positive face on the settlement with IRS. Battelle has never made a "profit" in the ordinary sense, but has plowed back surplus income into expansion, research, and its investment portfolio. It has a long history of performing research for industry and has enjoyed unusual success in developing patents and licensing operations.

In the statement on the settlement, Fawcett said that "the tax law by which Battelle must abide to qualify from Federal income tax precludes activities which Battelle believes are permissible and desirable under its charter." In becoming subject to federal income taxes Battelle officials appear to think that BMI will gain the best of both worlds, avoiding current and future federal restrictions on tax-exempt organizations while remaining a not-for-profit charitable trust under Ohio law.

The retrospective \$80 million distribution of funds under the agreement with the Attorney General breaks down as follows: \$7 million contributed by Battelle to charity in previous years; \$36.5 million earmarked to help build a convention center in Columbus; \$21 million

to a Battelle Memorial Institute Foundation created to distribute funds to local charitable organizations; \$8 million to an existing energy program to develop more effective energy sources; \$7.5 million to finance a transfer of the Academy of Contemporary Problems to an entity unrelated to BMI.

The impact on the academy, which is sponsored jointly by BMI and Ohio State University (*Science*, 20 December) cannot be other than unsettling. The \$7.5 million designated includes the \$2.5 million cost of the academy buildings and \$5 million which covers the entire Battelle guarantee of \$500,000 a year for 10 years of academy operations. Since Battelle support this year amounted to \$1 million, the academy will face immediate problems with its operating budget. Ohio State, which, like most universities these days, has financial problems of its own, is not a very likely prospect as an institutional patron and source of funds. The academy, therefore, will be pushed hard to establish its institutional identity and independence.

As for the future, the agreement requires Battelle to distribute percentages of net income from "business" activities—defined as being derived from R & D activities—and "nonbusiness" operations—from management of investments and patent holdings. Beginning in 1978 a minimum distribution of \$100,000 to charity is specified from business income plus 5 to 100 percent on a sliding scale tied to net income. A flat 25 percent of nonbusiness income is to be distributed.

The Attorney General will have full audit and "access" rights to Battelle records and by implication a big, if invisible, seat on the board of trustees. A preliminary assessment of the changes befalling Battelle is that BMI's research capacity survives more or less intact, but that its room to maneuver is much narrower than in the past.—JOHN WALSH