

**HOUSE ARMED SERVICES COMMITTEE
PANEL ON DEFENSE ACQUISITION REFORM
INTERIM FINDINGS AND RECOMMENDATIONS**

INTRODUCTION

The Panel on Defense Acquisition Reform (hereinafter “the Panel”) was appointed by Chairman Ike Skelton and then Ranking Member John McHugh in March 2009 to carry out a comprehensive review of the defense acquisition system. The review was motivated by a general sense among the members of the House Armed Services Committee that the Department of Defense’s (DOD) acquisition system was not responsive enough to today’s mission needs, not rigorous enough in protecting taxpayers, and not disciplined enough in the acquisition of weapons systems for tomorrow’s wars. The breadth of the problems that had recently come to light led members to conclude that a systemic examination was appropriate. The Panel took a year to perform its review, holding 12 hearings and numerous briefings covering a broad range of issues in defense acquisition. That review resulted in the Panel’s interim report, released on March 4, 2010. The Panel will hold an additional hearing on March 11, 2010 and will receive additional input from the various stakeholder communities on the interim report prior to delivering its final report on findings and recommendations to the full committee.

The Panel found that while the nature of defense acquisition has substantially changed, the defense acquisition system has not kept pace. The system remains structured primarily for the acquisition of weapon systems at a time when services represent a much larger share of the Department’s acquisitions. As a result, the Department’s formal acquisition policy has limited application to the majority of the Department’s acquisitions. Furthermore, while the Department is currently working to modernize in the “information age,” the acquisition system is particularly poorly designed for the acquisition of information technology. Even in the acquisition of weapon systems, the Department’s historical strength, the system continues to generate development timeframes for major systems measured in decades, an approach which has resulted in unacceptable cost growth, negative effects on industry, and in too many cases, a failure to meet warfighter needs.

In examining the defense acquisition system, the Panel found little commonality across the system. The acquisition of weapon systems, the acquisition of commercial goods and commodities, the acquisition of services and the acquisition of information technology have diverse features and challenges. A few areas, however, did develop as common issues across the system, and it is on these that the Panel focuses most of its recommendations. The Panel found that across all categories of acquisition significant improvements can be made in: managing the acquisition system; improving the requirements process; developing and incentivizing the

highest quality acquisition workforce; reforming financial management; and getting the best from the industrial base.

The Panel began with the question of how well the defense acquisition system is doing in delivering value to the warfighter and the taxpayer. For the most part, the Panel found that there is currently no objective way to answer this question. For most categories of acquisition, only anecdotal information exists about instances where the system either performed well, or poorly. Even where real performance metrics currently exist, they do not fully address the question. The Panel strongly believes that the defense acquisition system should have a performance management structure in place that allows the Department's senior leaders to identify and correct problems in the system, and reinforce and reward success.

The Panel's approach is to expand the mandate of the Office of Performance Assessment and Root Cause Analysis (PARCA) to serve a performance management function for the acquisition system. PARCA would track organizations throughout the defense acquisition system in meeting pre-negotiated goals for acquisition performance. Organizations would see real consequences for both success and failure in meeting their goals. The intent of the performance metrics and performance management recommendations in this report is not to create new layers of bureaucracy. If the performance management measures envisioned in the Panel's recommendations are implemented properly, program managers could be freed from certain reporting responsibilities specific to their individual program. The Department's leaders should be focused on identifying and addressing the acquisition systems strengths and weaknesses, not on second guessing the programmatic decisions made by those in the field.

In addition to instituting performance management for the acquisition system, the Panel recommends a performance management approach for the requirements process upon which the acquisition process depends. The Panel found that challenges with the requirements process are a major factor in poor acquisition outcomes. Most concerning was the fact that the requirements process for the acquisition of services, the largest category of acquisition, is almost entirely ad hoc. The process for developing requirements for the acquisition of weapon systems is overly cumbersome, but also lacking in the expertise and capacity required to truly vet joint military requirements. A major effort is required to address these flaws.

The Panel believes that the Department should establish the acquisition workforce as a model within the Department for more flexible personnel management that rewards success and includes accountability. The Department's Acquisition Workforce Demonstration Program and the authorities in section 1113 of the National Defense Authorization Act for Fiscal Year 2010 provide a solid foundation for creating an acquisition workforce that will obtain the value the Department needs. To achieve this, the Department requires flexibility to efficiently hire qualified new employees, and to manage its workforce in a manner that promotes superior

performance. Using these tools the Department can develop new regulations for the civilian workforce which include fair, credible, and transparent methods for hiring and assigning personnel, and for appraising and incentivizing employee performance.

Underlying the success of the defense acquisition system is the Department's financial management system. The Panel is concerned that the inability to provide accurate and timely financial information prevents DOD from adequately managing its acquisition programs and from implementing true acquisition reform. The implications of poor financial management stretch beyond the Department of Defense. Indeed, given that DOD is the largest agency in the federal government, owning 86 percent of the government's assets (estimated at \$4.6 trillion), it is essential that the DOD maintain strong financial management and business systems that allow for comprehensive auditing, in order to improve financial management government-wide and to achieve an opinion on the U.S. Government's consolidated financial statements.

The Panel also focused on how to get the most out of the industrial base. The Department has long worked to protect those elements of the defense industrial base that are perishable and unique to the Department. The Panel supports this priority. However, the Panel believes that the Department can enhance competition and gain access to more innovative technology, by taking measures to utilize more of the industrial base, especially small and mid-tier businesses. The Panel also believes that the Department is best served when it deals with responsible contractors. Contracting officers need access to accurate information on contractors that are known to be in violation of the law in making the determination about whether a contractor is responsible.

Two topics which could have sustained their own year-long investigation were addressed in the Panel's work. Wartime contracting has been a thread in the Panel's work, but not its main focus. The Panel believes that the excellent work and insightful findings of the Gansler Commission, when fully implemented, will address many of the underlying problems in this area. The Panel also notes that Congress created the Commission on Wartime Contracting specifically to investigate this question. Rapid acquisition is also clearly a significant challenge for the Department. The current system for satisfying Joint Urgent Operational Needs (JUONs) works best when it is being directly tasked by the Secretary of Defense, as has been the case with mine resistant ambush protected (MRAP) vehicles and certain intelligence, surveillance, and reconnaissance (ISR) programs. The Secretary cannot personally intervene on all JUONs, however, and the current system isn't always as fast as it could be when senior leaders do not intervene. The Panel notes that Congress commissioned a study by the Defense Science Board of how the Department fulfills JUONS. That study recommended the creation of a new Rapid Acquisition Fielding Agency. The Panel believes, however, that improving the responsiveness of the core acquisition system, before creating a new organization for rapid acquisition, will help clarify what the true mission for such an organization might be.

This report begins with a description of the defense acquisition system as the Panel observed it during its review. The report then moves to a discussion of how a performance management approach for defense acquisition and for requirements could be structured to allow senior leaders to identify and correct problems in those systems and make them more responsive to warfighter needs. The report then focuses on how to ensure a highly motivated and highly skilled acquisition workforce for the Department. It describes the challenges for acquisition generated by the Department's inability to manage its financial information, and it discusses ways to expand and protect the quality of the industrial base.

**PART I: THE STRUCTURE OF WHAT WE ARE BUYING
AND THE CHALLENGES IN THE CURRENT SYSTEM**

Subpart A: The Major Categories of Acquisition and Their Challenges

Although the Department’s policy and the Panel’s own work plan¹ refer to a “defense acquisition system” there is in fact very little of the unity in the system that such a term implies. This finding is true on at least two levels. First, the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD AT&L) exercises direct oversight over a relatively small percentage of acquisitions: mostly major defense acquisition programs (MDAPs), and recently, very large service contracts (those over \$1 billion).² Likewise, the bulk of overarching DOD policy and congressional oversight focus applies to this portion of the defense acquisition system.³ The bulk of the system is largely outside the day to day purview of USD AT&L and many of the most well known acquisition statutes (e.g. Nunn-McCurdy) don’t apply to the entire acquisition system. A much greater share of the defense acquisition system is run entirely by the military departments and is not centrally managed. Second, the character of the defense acquisition system varies greatly depending on the nature of the item being acquired. In fact, the Panel found that acquisition at the Department is funded, managed, overseen, and operated according to notably different processes depending on whether the category of item being acquired is a weapon system (military-unique good), a commercial good or commodity, a military-unique or commercial service, or information technology. The report will analyze these categories individually before discussing its conclusions about the system as a whole.

Acquisition of Weapon Systems (Military Unique Goods)

The warfighting mission of the Department of Defense is unique, and as a natural consequence, it is necessary and appropriate, at some level, that the Department acquires significant quantities of military-unique goods to help fulfill its warfighting requirements. The category of military-unique goods is largely synonymous with the term “weapon systems”⁴ For a variety of reasons historical and cultural the acquisition of weapon systems has been the marquee focus of defense acquisition. Similarly, the Department’s acquisition culture, process, and policy have been shaped by the characteristics of this category.

¹ See Appendix A for the Panel’s work plan.

² The Defense Logistics Agency also reports to the USD AT&L but typically few if any issues relating to DLA get elevated to the USD AT&L’s attention.

³ Information provided to the Panel by the Department indicates that MDAPS constitute just under 20% of acquisition spending. Large service contracts reviewed by USD AT&L constitute approximately another 11%.

⁴ While the Panel notes that the category of military-unique goods is not literally synonymous with weapon systems, it is the Panel’s belief that the acquisition of military-unique goods not needed in direct support of warfighting missions should be sharply limited. The term “weapon system” is not defined in statute or regulation but is defined in the Defense Acquisition University’s Glossary of Defense Acquisition Acronyms and Terms as an item that can be used directly by the Armed Forces to carry out combat missions.

The Panel believes that the Department's performance on weapon systems acquisition taken as a whole has been unacceptable. Last year, the Government Accountability Office (GAO) reported that on the then 96 Major Defense Acquisition Programs (MDAPs) the Department had experienced \$296 billion in total cost growth and an average of 22 months schedule delay⁵. The Panel notes that as the U.S. Armed Forces remain the world's best equipped fighting force, it would be incorrect to conclude that the defense acquisition system is failing. However, the Panel believes that system for acquiring weapon systems is falling far short of delivering full value to the warfighter and to American taxpayers. These findings led Congress to enact the Weapon Systems Acquisition Reform Act of 2009 (WSARA), and the Panel strongly supports the reforms in that Act.

WSARA is still in the process of being implemented⁶ and the Panel does not recommend making fundamental changes to that Act. However, the Panel's examination did identify additional issues in weapon systems acquisition that were not fully addressed in the Act. Furthermore, the Panel finds that the weapon systems acquisition culture negatively influences other parts of the acquisition system through both its impact on the Department's acquisition policy and its impact on the defense industry.

It is notable that relevant and useful performance metrics, while not perfect, nonetheless exist in weapon systems acquisition. Such performance metrics are almost entirely lacking in every other area of defense acquisition. Furthermore, even with weapon systems acquisition, a critical metric that is not directly addressed is a measure of whether the weapon systems acquisition process is delivering capability to warfighters when they actually need it. Put simply, the Panel believes that there is a mismatch between the culture of weapon systems acquisition and the demands that current operational requirements put on the acquisition system. Even in the Department's ninth year of active warfare during which large quantities of equipment have been consumed and numerous new mission needs have been generated, weapon systems acquisition remains typified by programs with development timelines lasting more than a decade.

⁵ MDAPs are an imprecise but effective measure of performance in weapon systems acquisition. The list of MDAPs has been revised since GAO's last report and now contains 102 entries. However, the current list is overwhelmingly composed of weapon systems. The exceptions, i.e. non-weapon system MDAPs, as determined by the Panel, were Cobra Judy Replacement, National Airspace System, NPOESS (Department of Commerce lead), GCSS-Army, DIMHRS (terminated in the FY11 budget), JPATS, 2 programs for the demilitarization of chemical weapons, and the Global Broadcast System. This means that of the 102 currently designated MDAPS (as of July 2009), 9 appear to serve functions that are not primarily related to combat functions.

⁶ DOD has taken a number of steps to implement the requirements of WSARA. Christine Fox was sworn in as the CAPE on November 3, 2009. The Secretary of Defense appointed Steven Welby as the Director of Systems Engineering and Christopher DiPetto as Acting Director of Developmental Test and Evaluation. The Secretary created a new Office of Performance Assessment and Root Cause Analysis, and appointed Gary Bliss as Director of the Office. The Under Secretary of Defense for Acquisition, Technology, and Logistics published a Directive Type Memorandum on WSARA Implementation on December 4, 2009 modifying DOD acquisition guidance to align with the act, and published a proposed rule implementing the Act's requirements relating to contractor organizational conflicts of interest in February 2010.

Weapon systems acquisition has historically tended to focus on incorporating cutting-edge technology into such capital-intensive items as high performance aircraft, naval ships, and armored vehicles. These two primary areas of focus – the push for cutting-edge technology and the development and renewal of capital intensive systems – have resulted in one definitive outcome: weapon systems acquisition is typified by exceptionally long development cycles.⁷ The pressure to develop cutting edge technologies requires extended technology development and integration. Potential user communities recognize that the capital intensive nature of individual systems means that “missing the boat” by not getting a desired requirement included on a system means losing the opportunity to fulfill that requirement for an extended period of time. These two dynamics form a feedback loop where the pressure to enhance requirements extends development cycles and consumes resources which increases the competition for resources which increases the pressure to include additional requirements on systems in line to receive those scarce resources.

The consequences of this feedback loop are clearly illustrated by the Department’s experience with the F-22. The F-22 program may be reasonably judged to have begun in 1986 with the award of two demonstration/validation contracts to Lockheed and Northrop.⁸ The F-22 entered production in 2001, a span of 15 years in development. F-22 production began in 2001, and will be completed in 2012, for a production cycle of 12 years. While the F-22 presents an extreme example even by DOD standards, it is notable that this relationship between development and production cycles is not only the inverse of those that typify commercial cycles, but also the inverse of DOD’s current policy expressing a preference for evolutionary acquisition which advocates moving programs rapidly into production using mature technology and open systems architectures and then “spiraling in” technology and performance improvements during an extended production cycle.⁹

The culture of weapons systems acquisition is reinforced by similar cultures in the two other departmental processes which drive acquisition outcomes: the Joint Capabilities Integration and Development System (JCIDS) which generates the requirements for weapons

⁷ In this instance, development cycles for similarly complex commercial systems (i.e. ships, aircraft, vehicles) are used as a point of comparison to support the Panel’s assertion that DOD development cycles are long. Even with the two year delay in the development of the Boeing 787 Dreamliner, current projections are that the aircraft will enter airline service 8 years after the Boeing board approved development of a 7E7 aircraft. The F-22 achieved IOC in 2005, 20 years after the award of the demonstration/validation contracts.

⁸ At that time, the program was known as the Advanced Tactical Fighter Program. The F-22 was Lockheed’s winning design for the program.

⁹ DODI 5000.02 defines Evolutionary Acquisition this way: “An evolutionary approach delivers capability in increments, recognizing, up front, the need for future capability improvements. The objective is to balance needs and available capability with resources, and to put capability into the hands of the user quickly. The success of the strategy depends on phased definition of capability needs and system requirements, and the maturation of technologies that lead to disciplined development and production of systems that provide increasing capability over time.”

systems, and the Planning, Programming, and Budgeting System (PPBS) which provides the budget for the acquisition of weapon systems. The Panel received compelling testimony that the complexity inherent in coordinating these robust and largely independent bureaucratic processes with an acquisition program over a period of multiple decades is one of the primary challenges in defense acquisition.¹⁰ JCIDS, as noted above, often results in the inclusion of more and more complex technological requirements that lead to extended acquisition development timelines. The Panel also received testimony that the joint staff lacks some of the analytical expertise necessary to ensure that the JCIDS process rigorously vets proposed requirements.

The PPBS is organized around the five-year Program Objective Memorandum (POM) which is revised every other year. This structure also tends to lengthen acquisition timelines. Weapon systems are largely acquired using appropriations that have existed for decades that are solely dedicated to this purpose and are programmed ahead in detail for at least five years. The limited flexibility in the POM process means that when a mission need is identified, it is often a two-year wait until a budget wedge for that purpose can be inserted in the next POM and funding is often limited in the first few years after it is obtained. The Panel notes that the early stages of an acquisition program are in many ways the most critical. It is in the early stages that investments must be made in systems engineering, acquiring technical data rights to support competition and system sustainment, and for robust developmental testing. While all these elements are critical for overall program success and best accomplished early, they are all too easy to defer when funding is limited. The slow reaction time of PPBS to new mission needs further incentivizes those in the requirements and acquisition processes to plan for extended program timelines. Instability in the budget process also frequently extends program timelines by requiring program managers to delay program scope due to unexpected funding limitations.

The limitations of the requirements and budget processes may be best illustrated by the fact that urgent operational needs are routed entirely outside the JCIDs and PPBS processes. The Panel notes that the Defense Science Board in its June 2009 study argued that the requirements, acquisition, and budget processes were so insurmountably tied to the existing acquisition culture and its extended timelines, that a Rapid Acquisition Fielding Agency should be created to meet urgent operational needs.¹¹ The Panel believes that for the most urgent operational needs, special acquisition processes are clearly warranted. At the same time, the Panel believes the Department and the Congress should not accept program development timelines routinely measured in double digits for most of the Department's needs as this approach will not be responsive to the Department's operational requirements. The Panel believes that the Department must begin to actually apply its policies expressing a preference for evolutionary

¹⁰ Testimony of The Honorable Gordon England, Admiral Edmund Giambastiani, USN (ret.), and Lieutenant General Ron Kadish, USAF (ret.) delivered at the Panel hearing of June 3, 2009 entitled "Coordinating Requirements, Budgets, and Acquisition: How Does It Affect Costs and Acquisition Outcomes?"

¹¹ Defense Science Board, "Fulfillment of Urgent Operation Needs," July 2009.

acquisition and open systems architecture in ways which result in different acquisition strategies and shorter development timeliness.

The effects of the current approach to weapon systems acquisition on the defense industry also are significant. The length and scope of weapon system programs has accelerated defense industry's consolidation around a handful of aerospace firms that now control large amounts of production capacity across the entire span of the defense acquisition system. Only the largest firms have access to the resources and expertise to bid on the most complex programs, and it is difficult for firms of all but the largest size to survive losing them. As a result, competition is reduced at the front end of programs, and all but eliminated in the sustainment phase (often as a result of poor planning for sustainment). Small businesses are largely locked out of the process or accorded contracts only on the goodwill of one of the larger firms. Mid-tier companies are either absorbed or decide to abandon defense acquisition for the more competitive commercial sphere, especially after a large weapon system competition loss. Winning or losing individual contracts becomes such a critical matter that the incentives to protest contract awards are overwhelming. The Panel is concerned that the end result of this process is the gradual erosion of competition and innovation in the defense industrial base.

Acquisition of Commercial Goods and Commodities

An integral part of defense acquisition is the purchase of commercial goods and commodities, and the suppliers of those goods are a significant portion of the industrial base. As the Department is able to participate in a vigorous commercial marketplace to acquire these goods, this area of the defense acquisition system should deliver excellent value to the Department. This may largely be the case; however, the Department has no metrics for evaluating this question, and some anecdotal evidence that exists creates concern that full value is often not being obtained. The Panel notes especially the case of the aircraft refrigerator purchased by the Defense Logistics Agency (DLA) whose price increased from \$13,825 in March 2002 to \$32,642 in September 2004.¹² There is currently no system in place through which contracting officers routinely check the prices they pay against prices paid in the past for identical items.

As the Department's largest logistics combat support agency, DLA supplies almost every consumable item America's military services need to operate, from meals ready to eat to jet fuel. DLA also helps dispose of excess or unusable materiel or equipment. In addition, DLA provides supplies to several civilian agencies emergency preparedness and humanitarian missions. The 2005 Base Realignment and Closure plan transferred and realigned additional functions from the

¹² Testimony of Bill Solis, Director, Defense Capabilities Management, Government Accountability Office, entitled "Defense Acquisition: Sound Practices Critical to Ensuring Value for the Defense Logistics Agency's Acquisitions," delivered to the Panel on September 24, 2009, page 12.

military services to DLA in order to gain defense-wide sourcing efficiencies. DLA essentially assumed responsibility of “retail” inventory, levels and requisition processing.

How DLA determines what and how much to buy is based on the defined requirements of its military customers. A consistent theme the Panel heard is that a prerequisite for good outcomes is properly defined requirements; this is true whether contracting officers are contracting for weapons systems, support services or commodities. However, poor requirements definition can lead to inefficient management of commodities. For example, inaccurate forecasting has resulted in billions of dollars worth of excess inventories of supplies that are simply not needed and are expensive to warehouse and manage.¹³ At the same time, when forecasts do not match actual demand, the Department runs short on critical supplies for the military.

The Panel received testimony that the requirements process for commodities and commercial goods acquisition can often lead to waste due to the Department’s problems with supply chain management. Supply chain management is critically important to the operational capability of U.S. forces. The effectiveness and efficiency, as well as management, of the supply chain have experienced problems which placed it on GAO’s high risk list. In response, the Department developed the *DOD Plan for Improvement in the GAO High Risk Area of Supply Chain Management with a Focus on Inventory Management and Distribution*” (i.e., the Supply Chain Management Plan). The Department subsequently also released its Logistics Roadmap, which is intended to be the framework for guiding, measuring and tracking DOD’s logistics improvement efforts, as well as determining whether current programs and initiatives are sufficient to close any identified capability gaps.¹⁴ One focus area was that of asset visibility (e.g., where is it? How will it get there and when will it get there?).

The use of inappropriate contracting vehicles also can lead to the inefficient acquisition of commodities as was the case at one point with some of DLA’s prime vendor contracts. In 2006, GAO reported that problems with DLA’s management of prime vendor contracts for food service equipment (e.g. the refrigerator example above) and construction equipment meant that DLA was vulnerable to overpaying, in some cases dramatically, for simple commercially available items.¹⁵ DLA eventually determined that some of its prime vendor contracts were not appropriate and it terminated those contracts.

¹³ Testimony of Bill Solis, Director, Defense Capabilities Management, Government Accountability Office, entitled “Defense Acquisition: Sound Practices Critical to Ensuring Value for the Defense Logistics Agency’s Acquisitions,” delivered to the Panel on September 24, 2009, page 7.

¹⁴ Office of the Secretary of Defense, Deputy Under Secretary of Defense for Logistics and Materiel Readiness, *Department of Defense Logistics Roadmap* (July 2008).

¹⁵ GAO “Defense Management: Attention Is Needed to Improve Oversight of DLA Prime Vendor Program,” GAO-06-739R, June 19, 2006.

Acquisition of Services

While weapon systems remain the marquee focus for defense acquisition, the money is actually shifting elsewhere. Acquisition of services now constitutes a majority of the acquisition budget.¹⁶ The Department obligates approximately \$200 billion for contractor supported services, more than double the amount spent on such services a decade ago. This trend is not unique to DOD; federal spending on services represents over 60 percent of total contract spending government-wide. GAO has noted that the increasing use of contractors continues to be the result of individual decisions made across the Department, the military services and the defense components and is not based on a strategic, comprehensive plan.¹⁷

The increase in the Department's reliance on contractors led the Secretary of Defense to announce, in April 2009, his intent to scale back significantly the role of contractors in support services by reducing the number of support service contractors from the current level of 39 percent of the workforce to the pre-2001 level of 26 percent, and replace contractor personnel with full-time DOD civilian employees. However, the question for the Department is not whether it should acquire services – contractors are clearly part of the force structure mix – but the extent and type of services that should be contracted, and the level of oversight for contracted services. Within the U.S. and at U.S. military installations overseas, contractors provide basic base support operations (such as food and housing), logistical support, equipment maintenance, and administrative support. In Iraq and Afghanistan, contractors provide not only traditional logistical and maintenance support, but also intelligence analysis and interpreters.

The variety of types of services provided – along with the variety of the types of service contracts awarded – leads to challenges in describing requirements, establishing measurable and performance-based outcomes, and overseeing contractor performance. One challenge in developing effective measures for cost, delivery or schedule performance is that services are often one-year efforts, and little insight is generated by some measures of contractor performance relating to deliveries and schedules in such a short timeframe. Despite that, GAO has noted that if contract quality assurance surveillance is not conducted, not sufficient, or not well documented, DOD is at risk of being unable to identify and correct poor contractor performance in a timely manner. It also is at risk of paying contractors more than the value of the services they performed.¹⁸ The Panel finds that based on the data currently available, it is unable to

¹⁶ A “service” is defined as any “thing”, “class of procurement”, that is not manufactured or does not require manufacturing, i.e. a service is not a tangible product, even though the service itself may produce some tangible outcome or output.

¹⁷ U.S. Government Accountability Office, *Actions Needed to Ensure Value for Service Contracts*, Testimony before the Defense Acquisition Reform Panel, U.S. House Armed Services Committee, GAO-09-643T (Washington, D.C. April 23, 2009)

¹⁸ U.S. Government Accountability Office, *Contract Management: Opportunities to Improve Surveillance on Department of Defense Services Contracts*, GAO-05-274 (Washington, D.C., March 2005).

establish a truly informed opinion about the current level of performance in the acquisition of services.

Congress required a management structure for the procurement of services that is comparable to that established for the procurement of products in section 801 of the National Defense Authorization Act for Fiscal Year 2002 (P.L. 107-107), codified in section 2330 of title 10, United States Code. This requirement was enhanced and implementation deadlines were added in section 812 of the National Defense Authorization Act for Fiscal Year 2006 (P.L. 109-163). To implement these provisions, the Air Force established a Program Executive Officer for Combat and Mission Support who is responsible for management and oversight of high dollar value service contracts for the Air Force. While each systems command within the Navy manages its own service contracts, oversight of all service contracting and development of policy guidance is handled by the Deputy Assistant Secretary of the Navy for Acquisition and Logistics Management. The Army Contracting Command develops policy guidance and oversees the Army's service contracts.

While all services categories can be narrowed to two major acquisition components – commercial services and non-commercial or developmental services – there are within these categories a wide range of contractor provided services. Furthermore, there is no “one size fits all” type of services contract. The variety of services provided, and the contracts awarded makes developing standard metrics to assess value difficult. However, the Panel notes that progress in this area is being made particularly in the Department of the Air Force. The Panel received testimony on an Air Force sponsored RAND study examining performance measures for service contracting,¹⁹ and a staff field visit observed some of these concepts being implemented at the Air Education and Training Command at Lackland Air Force Base.

The Panel notes that the measurement of performance in the acquisition of services, though equally critical as in other areas of acquisition, is a qualitatively different matter for services contracting. In fact, for services the precise metrics may differ even from one buying activity to another. However, the Panel believes that meaningful metrics in the categories of cost, quality, and delivery (i.e. timeliness and completeness) must be developed. The kinds of finite or concrete measures used to track hardware (such as development and production schedules and unit cost) may not be valid for services where indicators of contractor performance may be better judged by quality of service; responsiveness to the client, and cost control. The Department, in compliance with the FAR, uses the Contractor Performance Assessment Rating System (CPARS) to track contractor's performance on service contracts for use in past performance evaluations on new contract actions. The CPARS ratings demonstrate that metrics

¹⁹ Testimony of Laura Baldwin, Director, Resource Management Program, RAND Project Air Force, entitled “Air Force Services Procurement: Approaches for Management and Measurement” delivered to the Panel on April 23, 2009.

for services acquisition are within reach. However, as with most performance metrics currently used by the Department, CPARS tracks only the performance of the contractor, not the performance of the defense acquisition system.

The Panel believes that service contracts require at least the same level of discipline as weapon systems acquisition. Such discipline is critical for planning, requirements definition, market research, price reasonableness determinations, and project management and oversight. Ensuring that the workforce has these skills is a necessity. In addition, best practices and lessons learned should be shared across the defense enterprise and better coordination is needed so that buying services is done more strategically. The Panel notes that section 802 of the National Defense Authorization Act for Fiscal Year 2010 requires a review of service contracting by the Defense Science Board which should provide a basis for further improvements in the procurement and oversight of services. The DSB task force was officially stood up in December 2009.

The Panel notes with concern that in contrast to the formal, even rigid, requirements process for weapons systems acquisition the requirements process for services contracting is almost entirely ad hoc. In many cases the user community on a services contract is a military base commander or operational commander. However, these users are not accustomed to thinking of themselves, or operating, as requirements generators. They are not staffed or trained to perform these responsibilities, and for this reason, requirements for services contracts are often poorly written. As a result, the Department is either unable to obtain what it needs, is unable to hold contractors accountable for poor performance, or both. Although improvements have been made, weaknesses in the requirements process tied to the Army's Logistics Civil Augmentation Program (LOGCAP) contract in Iraq proved exceptionally damaging to the Department. The Panel notes that overall the requirements process for the acquisition of services is a critical weakness in the Department.

The Panel is also concerned that as the volume of service contracting has grown, services contracting training has not kept pace. The Department is not ensuring that the acquisition workforce acquires the skills, training, and experience needed to properly write, award, and oversee performance of service contracts, which can pose a different set of challenges than those associated with the procurement of goods. The Panel recognizes that the Defense Acquisition University (DAU) has created the Learning Center of Excellence for Service Acquisition, which is intended to provide a dedicated, integrating focus on developing an in-depth body of training and learning assets to improve DOD's execution of service requirements. However, the Panel remains concerned that professional-level training courses for services program managers continue to be lacking.

Information Technology (IT) – A Hybrid/Special Case

The advent of the Information Revolution has not only changed how we as a nation do business, but it has significantly impacted how we provide for the common defense. Information Technology (IT), which includes everything from hardware and software systems to data standards to commonly agreed-upon architectural frameworks, has completely permeated the national security enterprise. Information as a key enabler of the defense enterprise was identified specifically in the June 2008 National Defense Strategy as a critical capability.

The Department categorizes its investment in IT into broad portfolios or Mission Areas. These Mission Areas (MA) include: Business (BMA); Enterprise Information Environment (EIEMA); Defense Intelligence (DIMA) and Warfighting (WMA). The breakdown of investment by MA is included in Figure 1. These investment figures help illustrate the magnitude of the investment across the Department, as well as the complexity of managing diverse programs that affect all areas of acquisition- from embedded IT systems that run the control systems and avionics of weapons platforms; to military-unique applications that support intelligence, logistics and command and control; to commodity goods and services that provide basic desktop computing and other infrastructure support.²⁰

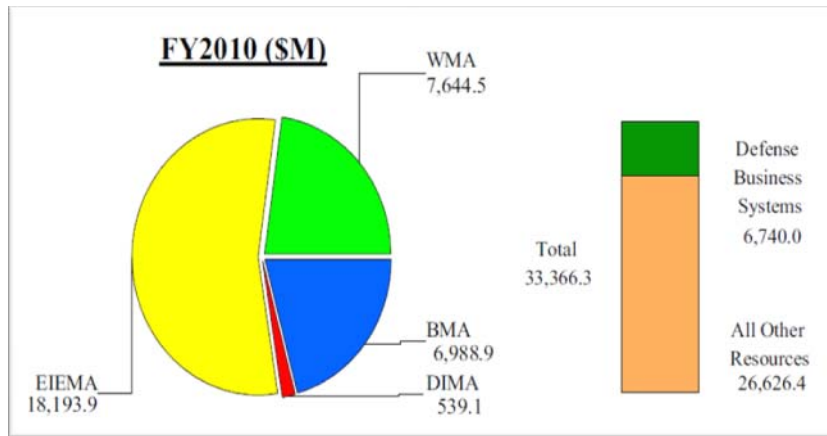


Figure 1: IT Mission Areas

²⁰ There are four general “types” of IT acquisitions: (1) application software development and integration; (2) straightforward COTS hardware/software integration; (3) integration of COTS and custom developed capabilities; and (4) commercially-provided IT services.

Weapon System	Year	% of Functions Performed in Software
F-4	1960	8
A-7	1964	10
F-111	1970	20
F-15	1975	35
F-16	1982	45
B-2	1990	65
F-22	2000	80

Table 1: Percentage of Functions Performed by Software

As in the business world, the Department runs on information. IT systems not only underpin the management and business practices of the Department, but they have become as integral to weapon systems as gun turrets, turbines or thermal sights. At the same time as software and IT are becoming more prevalent in weapon systems, the complexity of these systems is growing exponentially. As

illustrated by Table 1 below, the percentage of functionality provided by software has increased ten-fold over the past 40 years.²¹

Yet at the same time, studies of both commercial and government IT projects have found some disturbing statistics. For example,

- Only 16% of IT projects are completed on time and on budget.
- 31% are cancelled before completion.
- The remaining 53% are late and over budget, with the typical cost growth exceeding the original budget more than 89%.
- Of the IT projects that are completed, the final product contains only 61% of the originally specified features.²²

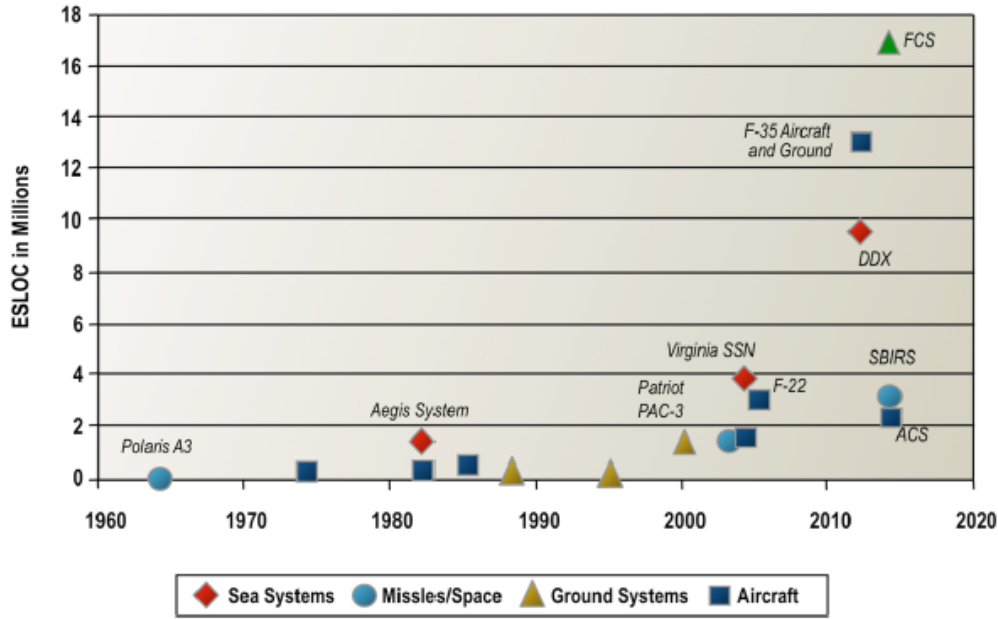
At the same time, the overall lines of executable code are increasing drastically, further exacerbating the challenges of IT development. Figure 2 shows that increase specifically within weapons systems.²³ Figure 3 shows the overall increase in the estimate source lines of code for national security systems- more than a twofold increase in ten years.²⁴ It is worth noting that more than half of that increase is associated with maintenance and upgrades for legacy systems, not for new software development projects.

²¹ Table 2 reflects functionality as of 2000. Today, the percentage of functionality has increased to 90%. See *Program Manager's Guide for Managing Software* (<https://acc.dau.mil/GetAttachment.aspx?id=24374&pname=file&aid=2836&lang=en-US>)

²² Defense Science Board Task Force on Defense Software (Nov 2000), <http://www.acq.osd.mil/dsb/reports/ADA385923.pdf>.

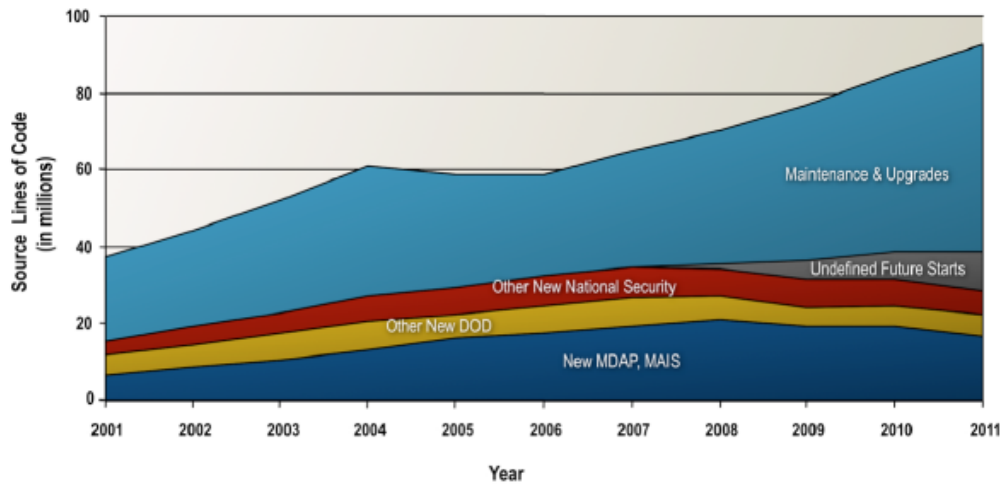
²³ Defense Science Board Task Force on Department of Defense Policies and Procedures for the Acquisition of Information Technology (March 2009), <http://www.acq.osd.mil/dsb/reports/ADA498375.pdf>, pg. 15.

²⁴ *Ibid.*, pg. 16.



Sources: CARD Data, SEI, CSIS Analysis

Figure 2: Executable Source Lines of Code within Classic Weapons Systems



Source: CARD data, Federal Procurement Database System, QSM, CSIS Analysis

Figure 3: Estimate Source Lines of Code for the National Security Community

The Panel reviewed a recent study by the National Research Council which indicated a number of findings that reflect the reality that DOD's weapon systems acquisition focused process is insufficient to deal with IT acquisition²⁵ As was pointed out in testimony before the Panel, the traditional defense acquisition process is *“ill-suited for information technology systems. Phase A is intended to mature technology; yet information technologies are now largely matured in the commercial sector. Phase B is intended to ready a program for production; yet information technologies are not produced in quantity. Phase C is a production phase, which again is generally not relevant to information technology that is not produced in quantity.”*²⁶ Weapon system acquisition processes are often applied to IT systems acquisition, without addressing unique aspects of IT. As one witness before the Defense Acquisition Reform panel put it, *“the weapon systems acquisition process is optimized to manage production risk and does not really fit information technology acquisition that does not lead to significant production quantities.”*²⁷

IT program requirements are often written with overly detailed specifications that are inconsistent with the pace of technological change and need for rapid delivery of end-user capabilities. The “waterfall” process used for large IT programs is too document-intensive, time-consuming and process-bound to respond effectively to end user needs. Testing is also a challenge in IT acquisition. Testing is integrated too late and serially in current IT systems acquisition practices, with testing in realistic operational environments deferred until the mandated operational test. The acquisition community has been reluctant to embrace virtualized testing or is overtly precluded from re-using or accessing operationally-relevant test data and environments.

As a result, the Department is unable to keep pace with the rate of IT innovation in the commercial market place, cannot fully capitalize on IT-based opportunities, and seldom delivers IT-based capabilities rapidly. By way of example, the private sector is able to deliver capabilities and incrementally improve on those initial deliveries on a 12 to 18 month cycle; defense IT systems typically take 48-60 months to deliver. In an environment where technology is obsolete after 18 months, defense IT systems are typically two to three generations out of date by the time they are delivered. With the exception of IT purchased via vehicles like Enterprise Software

²⁵ See *Achieving Effective Acquisition of Information Technology in the Department of Defense* (http://www.nap.edu/catalog.php?record_id=12823). In addition to this NRC report, this finding has been echoed by a number of other recent studies, including: Defense Information Systems Agency Cooperative Review from Business Executives for National Security, August 2008 (http://www.bens.org/mis_support/DISA_Project-08262008.pdf) and the Defense Science Board Task Force on Department of Defense Policies and Procedures for the Acquisition of Information Technology, March 2009 (<http://www.acq.osd.mil/dsb/reports/ADA498375.pdf>)

²⁶ Testimony of Mr. Tim Harp delivered at the Panel's July 9, 2009 hearing entitled, “Challenges to Effective Acquisition and Management of Information Technology Systems.”

²⁷ Testimony of Mr. Tim Harp delivered at the Panel's July 9, 2009 hearing entitled, “Challenges to Effective Acquisition and Management of Information Technology Systems.”

Initiative contracts, COTS technologies are insufficiently leveraged, excessively tailored, inefficiently tested and delayed.

The Panel also notes that the Department can use IT acquisition as a tool for increasing the cybersecurity posture of the Department by fostering system diversity. The Department's enterprise IT environment has been described as a monoculture, primarily because there is limited diversity of operating systems. From a management perspective, that makes it easier for the Department to purchase and manage the life-cycle of its systems. Unfortunately, this monoculture creates an environment that allows potential adversaries to gain a deep understanding of vulnerabilities in the enterprise, making attacks potentially much easier and more far-reaching than would be the case in a more diverse IT ecosystem.

The Panel notes that improving the acquisition of IT systems should be a high priority for the Department. Not only are these systems critical to the daily warfighting and support operations of the Department, but IT represents a \$33 billion investment that must be overseen wisely. There is a growing recognition that more must be done to differentiate IT acquisition processes within the overall acquisition process. Section 804 of the National Defense Authorization Act for Fiscal Year 2010 directed the implementation of an alternative process for IT acquisition to improve outcomes. While Congress awaits the implementation plan for this process, the Panel believes there are a number of critical issues that should be addressed by this plan.

Recommendations Related to IT Acquisition

Recommendation 1.1: The Department in drafting a plan to implement an alternative process for IT acquisition should consider the following:²⁸

- The alternative process must include from the start clear performance metrics for specific programs, as well as for comparison of programs at an enterprise level. As was pointed out to the Panel, "*the metrics we have been using have been the financial metrics and the acquisition process metrics [and] we have found they don't work very well in measuring IT success.*"²⁹ Good metrics in this area have already been developed in the commercial and academic sectors. What is needed is a cultural change that emphasizes the capture and tracking of metrics integral to the IT acquisition process and additional tools and resources for this purpose.

²⁸ Recommendation 1.1 was influenced by testimony delivered by Mr. Tim Harp, Dr. Paul Nielson, and Dr. Ron Kerber delivered at the Panel's July 9, 2009 hearing entitled, "Challenges to Effective Acquisition and Management of Information Technology Systems."

²⁹ Testimony of Mr. Tim Harp delivered at the Panel's July 9, 2009 hearing entitled, "Challenges to Effective Acquisition and Management of Information Technology Systems."

- IT acquisition must involve an ongoing dialogue during the technology development process between the system developers, who understand what is technically possible, and the warfighters, who understand the requirements and problems to be solved. This finding is consistent with other areas of acquisition, and is addressed more fully later in this report
- To the maximum extent practical, especially for major IT systems embedded into larger weapons systems, the Department should foster an open architecture (OA) approach that allows for more modularization of hardware and software. The Navy has implemented open architecture in a number of programs, such as the Acoustic COTS Rapid Insertion (ARCI) and the Common Submarine Radio Room programs, which bear out the success of this model. Achieving the type of “plug-and-play” approach for hardware and software that OA allows would reduce the time and cost currently incurred to modernize systems. It also would increase the opportunities for competition across the lifecycle of a system (not just during the initial development phase), minimizing the long-term reliance of single source providers for capabilities.
- The Department should develop a plan for how to strengthen the IT acquisition workforce, especially as it increases the size of the overall acquisition workforce in the coming years, including defined targets for billets devoted to IT acquisition, certification levels, and plans for developing and maintaining career paths. The Department also should explore the feasibility of developing dedicated cadres of acquisition professionals devoted to IT as a means of improving acquisition outcomes.
- IT acquisition should include alternative milestone decision points that are more consistent with commercial product development for IT. A new process will affect congressionally-mandated reporting requirements, but also may require substantial revisions to broader laws, such as the Federal Information Security Management Act and the Clinger-Cohen Act.
- The Weapons Systems Acquisition Reform Act of 2009 and Department of Defense Instruction 5000.02 emphasize evolutionary acquisition and require competitive prototyping in order to improve acquisition outcomes. The current process, though, does not describe how to effectively translate competitive prototyping into the IT environment, or how to implement evolutionary acquisition for IT.
- Dealing with the issues that arise from integration and testing of commercial products into military hardware has been a perennial problem that has not been adequately addressed in the past. For IT, that most likely means developing a new test and evaluation approach that merges developmental and operational testing in a parallel fashion and includes a greater number of small tests, and closely links the test and operational communities.

- IT acquisition should place greater emphasis on the up-front market analysis to best leverage limited funds by buying good solutions from the commercial market when they are available, and husbanding resources for development for instances when there is no other provider.
- DOD should conduct a more rigorous analysis of contracting mechanisms and contract incentive structures to determine which work best for IT acquisitions. Such an analysis should include current contracting mechanisms, but also should examine whether there are other new mechanisms that should be adopted.

Subpart B: Defense Acquisition Policy

While the government-wide Federal Acquisition Regulation (FAR), and the associated defense supplements to the FAR, apply to the Department's acquisitions and contain relatively detailed guidance relating to the planning, solicitation, and award of contracts, they represent only one element of the Department's acquisition policy. The FAR and its supplements focus on the rules for specific contract actions, and do not establish the kind of overarching strategic guidance needed to ensure that the defense acquisition system supports the Department's mission. The Defense Acquisition Guidebook explains the distinction between the requirements of the Department of Defense Instruction (DODI) 5000.02 and the FAR in relation to acquisition planning this way:

The FAR requires acquisition planning for all Federal procurements, and the DFARS requires PMs to prepare written Acquisition Plans (APs) for most acquisitions exceeding \$10 million. APs are execution-oriented and tend to contain more contracting-related detail than an Acquisition Strategy. An AP normally relates to a singular contractual action, whereas an Acquisition Strategy covers the entire program and may reflect the efforts of multiple contractual actions.

For the kind of strategic guidance needed to shape an entire acquisition program, the Department's acquisition policy is captured in two documents: DODI 5000.1, "The Defense Acquisition System," and DODI 5000.2, "Operation of the Defense Acquisition System."

Until very recently, these instructions focused almost exclusively on weapons system acquisition and on MDAPs even though information provided to the Panel by the Department in 2009 indicated that MDAPs constitute less than 20% of the Department's total acquisition spending. DODI 5000.02 devotes a total of 8 out of 80 pages to the acquisition of services compared to 16 pages describing the various stages of acquisition for MDAPs. The section on IT acquisition in DODI 5000.02 is 3 pages and deals largely with the requirements of the Clinger Cohen Act and, as mentioned earlier in this report, the milestone process laid out in DODI 5000.02 is likely inappropriate for use in the acquisition of IT.

Furthermore, while the content of various sections of the current DODI 5000.02 is in many cases excellent, there remain serious questions as to whether the policy is being implemented. The DODI 5000.02's stated preference for evolutionary acquisition has yet to demonstrate a real impact on weapons systems acquisition and MDAPs. The DODI 5000.02 enclosure providing guidance for the acquisition of services is well written, closely following the requirements of section 2330 of title 10, United States Code. However the Panel found little evidence that service contracting professionals were familiar with this guidance. The Panel's

staff visit to the field indicated that even the Department's higher performing buying activities are only in the early stages of implementing the policy for the acquisition of services.

The FAR itself may have inadequate guidance for services contracting. Part 37 of the Federal Acquisition Regulation (FAR) lays out the regulatory framework for service contracting:

This part prescribes policy and procedures that are specific to the acquisition and management of services by contract. This part applies to all contracts for services regardless of the type of contract or kind of service being acquired. This part requires the use of performance-based contracting to the maximum extent practicable and prescribes policies and procedures for use of performance-based contracting methods.

While FAR Part 37 is dedicated to service contracting, references to service contracting elsewhere in the FAR are somewhat limited, as noted by the multi-association taskforce. The taskforce recommended that references to service contracting needed to be better incorporated throughout the FAR – particularly in FAR Parts 7, 8, 12, 13 and 15.³⁰

³⁰ *Removing Federal Services Acquisition Barriers And Balancing Public and Private Interest*, Multi-Association Task Force Report on Service Contracting, May 17, 2005.

Subpart C: Challenges in Establishing Requirements for Acquisition

The Panel heard at almost every hearing held, regardless of the primary content focus of the hearing, that obtaining consistent, realistic requirements as a basis for the acquisition process is a critical problem in the defense acquisition system. Requirements in the weapon system acquisition context are governed by the Joint Capabilities Integration and Development System (JCIDS). The problems with the JCIDS process that the Panel heard about include:

- An inability to meaningfully prioritize.
- An inability to understand the costs and trade-offs inherent in establishing requirements.
- Excessive paperwork and bureaucratic delay in the process of considering new requirements.
- A lack of clear communication between those setting requirements and those in the acquisition process turning requirements into evaluation criteria and contract specifications.
- A lack of sufficient communication on requirements with defense industry necessary to allow industry planning for appropriate R&D and capacity investments.
- The achievement of “jointness” by accommodating inputs from all commenters, including inputs from those with no resources at stake.
- A lack of capacity on the joint staff devoted to requirements.
- A consistent pattern of “requirements creep” that happens after a JROC-approved requirement is established but before and during the period of contract specification and execution.
- A lack of ability to monitor “requirements creep” in between program milestones.
- An inability to properly incorporate requirements relating to system sustainability.

The Panel notes that JCIDS, although fulfilling a statutory mandate relating to all joint military requirements, generally considers only requirements relating to weapon systems, and excludes all consideration of requirements for the acquisition of services, no matter how operationally focused they may be. JCIDS also appears to assume that in cases where a materiel solution is required, that some degree of “technology development” will be required to fill a capability gap. Urgent warfighter needs are processed through the alternative, Joint Urgent Operational Needs (JUONS) process rather than through JCIDS. However, a capability gap that does not qualify as operationally “urgent” will go through JCIDS even if there could be an off-

the-shelf material solution. In this way, JCIDS demonstrates the same bias towards technology development and extended timelines as the acquisition process it informs.

In the context of the acquisition of services, problems the Panel heard about in the requirements process include:

- A lack of clarity in many instances on who is responsible for establishing requirements.
- A lack of capacity for establishing requirements in operational commands dependent on contractors for performing their mission.
- A lack of information and analysis necessary to provide a solid analytical foundation for a requirement.
- A lack of clear communication between those setting requirements and those in the acquisition process turning requirements into acquisition plans and contract specifications.

As noted previously in this report, the Panel believes that the lack of clear lines of responsibility in establishing requirements for the acquisition of services is a critical weakness in the Department, one which has proven extremely costly in recent operations.

In the context of the acquisition of IT, the Panel finds that the existing requirements process is ill suited for the rapidly evolving nature of the IT marketplace which requires an iterative dialogue on requirements. The current process is too inflexible and prone to the kinds of over-specification that has long been an issue in weapon systems requirements. In the context of the acquisition of commercial goods and commodities, the Panel finds that the requirements process depends on a supply chain management system that simply doesn't function with the level of precision required for determining requirements.

The Panel notes that two observations about the requirements process appear to hold true across the entire range of acquisition categories. First, the analytical basis for establishing requirements is at best insufficient and is occasionally almost nonexistent. Second, the requirements process is simply not currently designed to support the kind of iterative dialogue with the acquisition process that is needed to ensure that the acquisition process remains focused on real operational needs. In the context of weapon systems acquisition there should be a critical distinction between Key Performance Parameters, which are rarely modified, and the range of lesser requirements which can and should be re-tuned much more frequently throughout the acquisition process. Even the nomenclature of a "requirement" may insert a rigidity to these lesser priority items that is unwarranted. The Panel notes, however, that it is critical that the purpose of this iterative requirements dialogue should be for clarifying the true operational warfighter needs, not in creating more opportunities to insert additional requirements in the acquisition process.

PART II: THE BASIC ANSWER – WHO FIXES IT AND HOW

Subpart A: Creating a new Performance Management and Audit Function for Defense Acquisition – Recommendations

From the beginning of its work, the Panel focused on the question of how the Department measures performance in the defense acquisition system. The Panel was established in part in reaction to GAO's finding that DOD had experienced cost growth of \$296 billion on major defense acquisition programs as of January 2009. Tellingly, although all of the information required to compile this metric was generated by the Department in its Selected Acquisition Reports (SARs), it was GAO that "discovered" this information and reported it to Congress. Then USD AT&L John Young later disputed the accuracy and relevance of this overall total of MDAP cost growth. However, the Department's analysis was a *sui generis* effort that had never before been undertaken to analyze the overall data on MDAPs being generated in SARs. The Department had no performance management system in place to generate and analyze systematic data of this nature. In fact, the Panel heard direct testimony from witnesses that in many cases, senior Department officials are unaware of significant acquisition problems until they are disclosed by GAO audits³¹ The Panel was left with little comfort that the Department's leaders have the processes and tools in place to routinely identify such issues through internal review and reporting today. The Panel concludes that the Department needs a strong internal performance management function for acquisition that can serve as an internal GAO-like capability.

Recommendation 2.1: Congress should expand the role of the Office of Performance Assessment and Root Cause Analysis (PARCA) to operate as an auditable performance management function for the entire defense acquisition system.³²

Section 103 of the Weapon System Acquisition Reform Act of 2009 (WSARA) led DOD to create the Office of Performance Assessment and Root Cause Analysis (PARCA). Congressional intent in directing the establishment of this position was to establish a capability to identify, promulgate policy for, and track a series of meaningful metrics about performance in the defense acquisition system: metrics that would serve to allow the Department's leaders to manage the defense acquisition system rather than simply serve as a brake on the activities of the military departments on a limited subset of major programs. As with other provisions in WSARA, however, the mandate of PARCA was specified as being in relation to MDAPs only since this was the scope of that Act. As a result, PARCA as it exists today, while a useful and essential new capability, does not fulfill the Panel's recommendations.

³¹ Testimony of Mr. Jeffrey Parsons delivered at the Panel's hearing of July 16, 2009 entitled "Managing Service Contracts: What Works and What Doesn't?"

³² Recommendation 2.1 was influenced by Chairman Andrews input to the Panel on the importance of having an auditable mechanism for measuring performance and providing accountability

Recommendation 2.2: PARCA should report to the USD AT&L and also to the Chief Management Officer (CMO), through the Deputy Chief Management Officer (DCMO), and should be responsible for setting policy for, maintaining information from, and regularly auditing performance information across the entire defense acquisition system. PARCA would oversee similar organizations within the military departments which would report jointly to the CMO and the Services Acquisition Executive (SAE) of the military department.³³

The Panel notes that the President's Budget for Fiscal Year 2011 sets a government-wide goal to improve government performance management:

To improve the performance of the federal government in the coming fiscal year and in years to come, the Administration will pursue three mutually reinforcing performance management strategies:

- 1. **Use Performance Information to Lead, Learn, and Improve Outcomes.** Agency leaders set a few high-priority goals and use constructive data-based reviews to keep their organizations on track to deliver on these objectives.*
- 2. **Communicate Performance Coherently and Concisely for Better Results and Transparency.** The federal government will candidly communicate to the public the priorities, problems, and progress of government programs, explaining the reasons behind past trends, the impact of past actions, and future plans. In addition, agencies will strengthen their capacity to learn from experience and experiments.*
- 3. **Strengthen Problem-Solving Networks.** The federal government will tap into and encourage practitioner communities, inside and outside government, to work together to improve outcomes and performance management practices."³⁴*

Each federal agency is tasked to identify a Performance Improvement Officer. At the Department, this role is fulfilled by the Deputy Chief Management Officer (DCMO), a statutory position created by section 904 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-108). The DCMO works with the military departments and defense agencies to oversee and coordinate their performance management efforts. The Panel notes that as part of this effort, the Department has identified Reform of the Acquisition Process as one of its 10 high priority performance goals for Fiscal Year 2011. In the case of acquisition, the Panel believes that a coordinated effort between the DCMO and the USD AT&L is needed to develop concrete

³³ Recommendation 2.2 builds on provisions in WSARA that were a result of input from the Panel in the drafting of that Act.

³⁴ The President's Budget Request for Fiscal Year 2011, "Analytical Perspectives/Performance and Management," Page 73.

measurable performance goals for all of the PEOs and buying activities in the defense acquisition system.

As with other areas of acquisition discussed in this report and as mentioned earlier, the systems within the Department for the evaluation and audit of program performance, such as they are, developed out of and remain extensively focused on the acquisition of weapon systems. In recent years, in response to sections 812 of the National Defense Authorization Act for Fiscal Year 2006 and Section 808 of the National Defense Authorization Act for Fiscal Year 2008, DOD has begun to extend performance evaluation concepts to services contracting. DOD briefed the Panel that it's policy guidance requires that services contracts be let "based on clear, performance based requirements; include identifiable and measurable cost, schedule, and performance outcomes consistent with customer needs; receive adequate planning and management; and use a strategic, enterprise-wide approach for both planning and execution of the acquisition".³⁵ Panel staff followed up on this issue during a field visit to Army and Air Force services contracting activities. These visits revealed that the military departments are in only the early stages of implementing the guidance on the acquisition of services at a relatively small number of centers of excellence, and furthermore, that there are limited systems below the level of the major command for tracking and monitoring the implementation of this policy.

One of the primary tools the Department does use for performance measurement (though not currently for true performance management) is the Earned Value Management System (EVMS). USD AT&L Dr. Ash Carter recently reported to Congress that the Department intends to improve EVMS and expand on its use to allow for it to become a true performance management tool.³⁶ EVMS has experienced a number of issues, notably with contractor implementation and data quality. However, for the Panel's purposes, the most significant limitations are that EVMS only measures the performance of a contractor, not of the organization which is managing the acquisition. Furthermore, EVMS would generate no negative information about a contractor performing on cost, on schedule, and meeting all contract requirements even if (or perhaps especially if) the contract in question had a wildly inflated price or a schedule or set of contract requirements that utterly failed to meet warfighter needs. Thus, EVMS while a valuable tool is not sufficient to fulfill the Panel's recommendations. As noted earlier in this report, CPARS is a similar, and similarly incomplete tool for fulfilling this recommendations.

Recommendation 2.3: PARCA and all Program Executive Offices (PEOs) and buying activities should negotiate specific measurable goals for each PEO/buying activity relating, at a minimum, to cost, quality, delivery, acquisition workforce quality (including program manager tenure where relevant), quality of market research, small business utilization, and

³⁵ Briefing to the Panel by Shay Assad, the Director of Defense Procurement and Acquisition Policy, March 23, 2009

³⁶ "Department of Defense Earned Value Management: Performance Oversight and Governance," September 1, 2009, page iii.

utilization of acquisition best practices. In cases where they are unable to negotiate a set of goals by consensus, PARCA's recommendation would take precedence with the possibility of review by the USD AT&L.³⁷

As discussed previously in this report, the Panel is well aware that the diversity of the defense acquisition system means that performance metrics must necessarily be tailored to the nature of the acquisition concerned (e.g. services, commodities, weapon systems, etc.) However, the Panel believes that in the realm of acquisition, DOD has had success in identifying measures of cost performance, quality, and delivery as common standards across the defense acquisition system. It is the Panel's view that while these measures may not be directly comparable between a services contract and a weapon system, it is nonetheless true in both instances that such metrics are independently valid and useful.

In addition to performance measures that track how a PEO/buying activity manages its contractors such as cost, quality, and delivery, the Panel believes that the proposed PARCA performance management function can be utilized to improve the extent to which PEOs and buying activities follow important elements of defense acquisition policy by utilizing measures that evaluate their compliance with these policies. The panel believes that chief among the metrics that should be developed in this area are acquisition workforce quality (including program manager tenure where relevant), quality of market research, small business utilization (including usage of technologies developed under the Small Business Innovative Research program), utilization of acquisition best practices (e.g. avoiding unsuitable contract types, evolutionary acquisition and integrated testing approaches)

The exact nature of the goal for each performance measure should be negotiated between the PEO/buying activity and PARCA. In cases where the program office/buying activity and PARCA disagree on the goals to be set in a given year, PARCA's recommendation would prevail though the PEO/buying activity should be given the opportunity to ask the USD AT&L to review the decision.

Recommendation 2.4: Performance measures must be directly linked to positive incentives and consequences that reward high performing activities and reform or shift responsibilities away from low performing activities. Given the nature of the rewards and

³⁷ Recommendation 2.3 was influenced by Chairman Andrew's input to the Panel on establishing performance measure for cost, quality and delivery and by his input on a mechanism for resolving impasses. Recommendation 2.3 was also influenced by Representative Cooper's input on the need to track the use and benefits of SBIR technologies, and Representative Coffman's input on the need for balanced and adequate testing in support of acquisition.

consequences recommended, performance reviews for each activity will have to be performed regularly.³⁸

The Panel believes performance measures will truly become performance management tools when coupled directly with positive incentives and consequences for the activities being managed. It is therefore essential that these performance measures be tied directly to positive incentives, such as the size of bonus pools available for personnel of the PEO/buying activity and the timing of promotions. In the case of poor performing activities, consequences would include reduced bonus pools, and possible transfer of some acquisition responsibilities to other organizations until the activity demonstrated the capacity to perform its assigned workload up to the Department's performance standards.

³⁸ Recommendation 2.4 was influenced by Chairman Andrews, Representative Cooper, Representative Coffman, and Representative Ellsworth's input on the need for enhanced accountability in the management of the defense acquisition system.

Subpart B: Establishing Clear Lines of Authority for Setting Acquisition Requirements -- Recommendations

Recommendation 2.5: The Department should ensure that the input of USD AT&L, the Director of Cost Assessment and Program Evaluation (CAPE) and the Combatant Commanders (COCOMs) is meaningfully considered in Joint Requirements Oversight Council (JROC) discussions.³⁹

The Panel notes that WSARA added USD AT&L, CAPE, and COCOM input to the JROC process to ensure that trade-offs between cost, schedule, and performance objectives are being made in the requirements process. The Department should continue to monitor the effectiveness of the current non-voting membership of USD AT&L and CAPE and the sufficiency of input from the COCOMs to determine if these entities should be formally made members of the JROC.

Recommendation 2.6: The Department should establish reform of the requirements process as a top performance management priority and appoint the Vice Chairman of the Joint Chiefs of Staff to improve performance in the system across the entire range of requirements that affect the defense acquisition system.⁴⁰

The Panel believes that the process of setting requirements for acquisition is so critical to the Department's mission that it should be added to the list of the Department's performance management goals as a top priority. The Vice Chairman of the Joint Chiefs of Staff should be appointed as goal leader for this effort. For the current JCIDS process, at a minimum, the Department should monitor the timeliness of action in the requirements process, the quality of the requirements workforce, cost realism, the degree of prioritization in establishing requirements, and the utilization of meaningful sustainment requirements. The Panel also believes that the Vice Chairman of the Joint Chiefs of Staff should be granted a clear statutory mandate to establish guidance for the setting of requirements for the acquisition of services and work with the service chiefs to improve the requirements setting process for commercial goods and commodities.

Recommendation 2.7: The Department and Congress should review and clarify the Goldwater-Nichols Act's separation between acquisition and the military service chiefs to allow detailed coordination and interaction between the requirements and acquisition

³⁹ Recommendation 2.5 was influenced by Representative Cooper's input on the need to integrate the acquisition expertise of USD AT&L and the COCOMs in the JROC process.

⁴⁰ Recommendation 2.6 was influenced by Representatives Cooper and Conaway's input on the need to improve the requirements process and reduce requirements creep.

processes and to encourage for enhanced military service chief participation in contract quality assurance.⁴¹

The Panel is concerned that the divide established in the Goldwater-Nichols Act between acquisition and the military service chiefs has become so wide that it hinders both the acquisition and requirements process. While the fundamental construct in the Goldwater-Nichols Act, correctly assigned lead responsibility for acquisition to the Department's civilian leaders, the Act should be clarified to ensure that the requirements processes that must coordinate with all categories of the defense acquisition system freely interact with the acquisition process. The service chiefs should also be given greater authority and responsibility to oversee contract quality assurance especially for contracts that are highly operational in nature.

Recommendation 2.8: The Vice Chairman of the Joint Chiefs should designate a COCOM as the end-user capability proponent for all MDAPs. The COCOM would designate a subordinate unit within the command as a Joint Evaluation Task Force (JETF).⁴²

To ensure that the appropriate degree of dialogue occurs between the acquisition community and the warfighter in the acquisition of weapon systems, the Vice Chairman should designate a COCOM as the end-user capability proponent (Combat Developer) for all MDAPs. The COCOM would designate a subordinate unit within the command as a JETF, with the responsibility of providing ongoing end-user requirements feedback to the program manager. The services' traditional requirements organizations would provide a secretariat function for the COCOM and JETF to assist the JETF in handling the administrative burden of this responsibility.

⁴¹ Recommendation 2.7 was influenced by Representatives Cooper, Ellsworth's input on the need to revisit the division of responsibilities of USD AT&L, service secretaries, and service chiefs under the Goldwater-Nichols Act.

⁴² Recommendation 2.8 was influenced by Representative Cooper's input on the need to better incorporate the input of COCOMs in the requirements process.

Subpart C: Better Match Defense Acquisition Policy to the Defense Acquisition System -- Recommendations

Recommendation 2.9: The Department needs to improve the communication of its policy guidance on service contracting and reexamine DODI 5000.02 and related guidance to ensure that mandates and requirements that are particular to the acquisition of weapon systems are not being inappropriately applied to other areas of acquisition, particularly the acquisition of services and information technology.⁴³

The Panel believes that the Department's acquisition guidance has too extensive a focus on technology development in relation to its focus on the core acquisition function. As discussed in Part I of this report, the Panel believes that a detailed instruction for the acquisition of information technology should be developed as an alternative to the process for weapon systems outlined in DODI 5000.02.

Recommendation 2.10: The Department should develop guidance for formally communicating information on the Department's mission needs with industry that is independent of specific acquisition program and contracts.⁴⁴

The purpose of this dialogue would be to provide industry with the insight needed to make necessary investments in capacity, infrastructure, and technology development to meet the Department's needs.

⁴³ Recommendation 2.9 was influenced by Representative Andrews input on the need for defense acquisition policy to comprehensively address the entire defense acquisition system, not just weapon system acquisition.

⁴⁴ Recommendation 2.10 was influenced by Representative Coffman's input on the need to maintain a healthy industrial base and increase predictability for industry.

Subpart D: Address Negative Financial Incentives such as Obligation and Expenditure Benchmarks

The Panel consulted with a number of members of the defense acquisition workforce, in both formal and informal sessions. One of the concerns expressed by program and business managers was the effect of obligation and expenditure benchmarks on spending and funding stability.

Obligations are considered to be funds placed on contract at the time a contract is signed or subsequently modified. In essence, these funds represent the maximum amount of funding available for activities within the scope of the contract, or the government’s maximum liability under the contract. Funds are not expended (“expenditures”) until the contractor presents the government with a voucher for activities performed or material ordered under the contract and a check or electronic funds transfer is sent back to the contractor.

The Under Secretary of Defense (Comptroller) and the Comptrollers of the military departments establish benchmarks as a guide for managing appropriations. These benchmarks are used by the Office of the Secretary of Defense (OSD) and higher headquarters within a Service to compare actual obligations and expenditures to these established goals, in order to identify high-performing programs, troubled programs, potentially forward-financed programs, and programs that may be bill payers for higher priority requirements. Thus, the benchmarks will conform to, but are not the same as the legal “life” of various appropriations – the time by which a type of appropriation must be spent before the funds expire. For example, appropriations law makes research, development, test, and evaluation (RDT&E) funds available for obligation for two years and requires expenditure within 5 years. However, OSD benchmarks require 80% of RDT&E funds to be obligated within the first year, with 55% of such funds expended in the first year and 90% by the end of the second.

Current OSD benchmarks are shown in the table below*. Each of the Services benchmarks vary, but are typically set several percentage points higher than the OSD goal. Both sets of benchmarks are based on historical trends.

Appropriation Category	First Year Available		Cumulative Second Year Available		Cumulative Third Year Available	
	Obligation	Expenditure	Obligation	Expenditure	Obligation	Expenditure
O&M	100%	-----	N/A	-----	N/A	-----
RDT&E	80%	55%	100%	90%	N/A	-----
Procurement	80%	-----	96%	-----	100%	-----
Advanced Procurement	100%	-----	N/A	-----	N/A	-----

*Notes:

1. Where percentages are shown, these represent “end-of-year” benchmarks against which the specific appropriation account could be measured by OSD.
2. A “---” in a column indicates no specific OSD benchmark.
3. A “N/A” in a column indicates that 100% should have already been achieved.

The concern expressed by certain program and business managers is that these benchmarks may drive spending ahead of need, solely to comply with the benchmarks. Managers may feel under pressure to sign contracts (obligating the funds) prior to reaching a set of negotiated terms that are in the best interest of the government. Likewise, managers may feel compelled to approve vouchers for payment that would otherwise warrant further scrutiny or approve unnecessary activities, in order to improve expenditure rates. Furthermore, should managers not meet these benchmarks, they run the risk of having previously appropriated funds rescinded or funds programmed for the following year removed. The loss of funds in the year of execution or in the next fiscal year may inject instability into the program that can actually drive cost increases.

The Panel also recognizes, however, that the Department will always face unanticipated requirements that must be funded. It is reasonable that these emerging, higher priority needs can be paid for by shifting funds away from programs that will not be able to use their appropriations as planned. A benchmark system of some sort is a reasonable yardstick for identifying an initial list of candidates for further evaluation.

Recommendations Related to Obligations and Expenditures

Recommendation 2.11: The Department and each of the military services should review all relevant policy and instruction regarding obligation and expenditure benchmarks to ensure that such guidance does not inadvertently create adverse compliance. In addition, as part of the training that all program managers and business managers receive, the purpose and limitations of benchmarks should be made clear.⁴⁵

Managers should be encouraged to place a higher priority on seeking the best value for the government than on meeting arbitrary benchmarks for spending. These behaviors should be supported by the Department’s leadership at every level.

Recommendation 2.12: The Under Secretary of Defense (Comptroller) and the Comptrollers of the military departments should rely more on individual obligation and expenditure

⁴⁵ Recommendation 2.11 was influenced by the comments of members of the defense acquisition workforce attending the Defense Acquisition University who attended a roundtable discussion with members of the Panel on November 19, 2009 and by the input of Representative Coffman on the need to promote program stability.

plans for measuring program financial performance.⁴⁶

Services and Defense Agencies already require subordinate organizations to submit written obligation plans and expenditure plans (known as “spending plans”) for all appropriations for which they have received a funding. These plans are required to forecast – on a month by month basis – when funds are expected to be obligated and expended. Then, during the period of execution, actual obligations and expenditures are tracked in monthly reports. In addition, program managers are generally required to report on these actual and planned obligations and expenditures as part of the quarterly reviews or briefings to their Program Executive Officer. Given that program managers receive training on the content of these individual spending plans and that they are already used to track progress at a lower level, higher commands should place greater reliance on these customized measures of performance rather than arbitrary standards.

Recommendation 2.13: PARCA should study the issue of obligation and expenditure benchmarks further and propose new benchmarks/processes for tracking financial performance and/or mechanisms for programs to submit reclaims for funding changes, as appropriate.⁴⁷

⁴⁶ Recommendation 2.12 was influenced by the comments of members of the defense acquisition workforce attending the Defense Acquisition University who attended a roundtable discussion with members of the Panel on November 19, 2009 and by the input of Representative Coffman on the need to promote program stability..

⁴⁷ Recommendation 2.13 was influenced by the comments of members of the defense acquisition workforce attending the Defense Acquisition University who attended a roundtable discussion with members of the Panel on November 19, 2009 and by the input of Representative Coffman on the need to promote program stability..

PART III: THE DEFENSE ACQUISITION WORKFORCE

The Department of Defense is probably the largest buying enterprise in the world. From fiscal year 2001 to fiscal year 2008, the Department's annual purchase of goods and services more than doubled to \$388 billion. The number of contract actions also increased significantly and grew in dollar value and complexity. Yet, the size of the acquisition workforce within the government remained relatively steady over that timeframe, between 126,000 and 129,000 government personnel.⁴⁸

During the post-Cold War drawdown in the mid- to late 1990s, Congress imposed a series of reductions to the overall size of the acquisition workforce in an effort to downsize that workforce commensurate with reductions being experienced in the workforce department-wide.⁴⁹ There has been on-going debate over whether the cuts were too large, and whether they were well-managed. Notwithstanding the debate over the impact those personnel reductions had on the quality and composition of the acquisition workforce, the Department's procurement budget has increased significantly, as did the number of contract actions it undertook.

Ensuring that the acquisition workforce is adequately staffed, skilled and trained, and improving the workforce's quality and performance are as important as improvements to acquisition processes and structures. Since 1992, GAO has identified the Department of Defense's contract management as a high risk area, and in its latest update reiterated that the Department needs to take appropriate action to ensure that its acquisition workforce is adequately sized, trained, and equipped to meet the Department's needs. As GAO has noted, "*at times...DOD's acquisitions have not resulted in the desired outcomes. The lack of well-defined requirements, the use of ill-suited business arrangements, and the lack of an adequate number of trained acquisition and contract oversight personnel contribute to unmet expectations and continue to place the Department at risk of potentially paying more than necessary,*" not to mention increasing the Department's exposure to fraud, waste, and abuse.⁵⁰

The Department and the military services contend that they are working to determine the right mix of technical know-how, subject matter expertise, and general business skills that is needed within the workforce as well as the right balance between military and civilian personnel and between government and contractor personnel.⁵¹ The Department's Human Capital

⁴⁸ U.S. Government Accountability Office, *Additional Actions and Data are Needed to Effectively Manage and Oversee DOD's Acquisition Workforce*, GAO-09-342

⁴⁹ *Defense Acquisition Workforce: Issues for Congress*, Congressional Research Service Report for Congress (98-938F), Updated March 11, 1999

⁵⁰ U.S. Government Accountability Office, *High Risk Series, An Update*, January 2009, GAO-09-271

⁵¹ Defense Acquisition, Technology and Logistics Human Capital Plan, June 2007

Strategic Plan for the acquisition workforce identifies maintaining a “high performing, agile, and ethical workforce” as the “number one priority.”⁵²

Addressing these issues is particularly critical now since the budget request for Fiscal Year 2011 continues support for the Department’s plan, announced in April of last year, to scale back significantly the role of contractors in support services; this plan also was reinforced in the Quadrennial Defense Review. A specific focus of the insourcing effort is in acquisition where, by 2011, the Department intends to decrease its reliance on contract services in acquisition functions by increasing in-house civilian and military personnel by 4,765 authorizations for positions. By 2011, the Department will increase the total number of civilian and military personnel performing acquisition functions by 10,025 total personnel (end strength); the acquisition workforce will grow to 147,000 total personnel by 2015.

Over the past decade or more, Congress has included a number of provisions in annual authorization legislation providing direction relating to the size, composition, quality and performance of the defense acquisition workforce.

Defense Acquisition Workforce Improvement Act. To address concerns related to workforce quality, in 1990, Congress passed the Defense Acquisition Workforce Improvement Act (DAWIA), which aimed to formally establish the acquisition workforce and increase its professionalism. In developing the legislation, the House Armed Services Committee considered the “three distinct elements within DOD’s Acquisition System: (1) the policies, procedures, and processes which govern the operation of the acquisition system; (2) the organization of the resources (people, management structure, capital, and facilities) that execute the policies and procedures; and (3) the people within the organization that make the system work.”⁵³ DAWIA also mandated certain training and certification requirements, and created the Defense Acquisition University to provide for the professional educational development and training of the acquisition workforce.

Defense Acquisition Workforce Development Fund. The National Defense Authorization Act (NDAA) for Fiscal Year 2008 (Public Law 110-181) established a workforce development fund dedicated to the recruitment, training, and retention of acquisition workforce personnel to make certain the Department has the capacity, in both personnel and skills, to provide appropriate oversight of contractor performance, and ensure that the Department receives the best value for the expenditure of public resources. Department and Service officials responsible for managing the acquisition workforce view the existence of the fund positively, describing it as a “jump start” to the acquisition workforce hiring initiative announced by Secretary Gates.

⁵² *AT&L Human Capital Strategic Plan*, “A Message for the Under Secretary of Defense for Acquisition, Technology and Logistics.”

⁵³ *The Quality and Professionalism of the Acquisition Workforce*, Subcommittee on Investigations, May 8, 1990

Government Performance of Critical Acquisition Function. The FY 2008 NDAA directed the Department to establish a goal that, within five years, the following positions for major defense acquisition programs and major automated information systems be filled by government personnel (military or civilian personnel): (1) program manager; (2) deputy program manager; (3) chief engineer; (4) systems engineer; and (5) cost estimator. This provision required the Secretary to develop a plan of action to recruit, train, and ensure the career development of such personnel and to report annually to the defense committees on the progress in achieving the goal.

Expedited Hiring Authority. In the Fiscal Year 2009 NDAA (Public Law 110-417), Congress gave the Department expedited hiring authority to forego standard competition requirements to fill acquisition positions within the Department that have been designated as facing critical shortages. The Department issued guidance in December 2008 and the Services are beginning to use the authority, which allows them to avoid the standard process which can take months to produce a job offer for suitable candidates to instead make a job offer in as little as three days.

Career Path and Other Requirements for Military Personnel in the Acquisition Field. The FY 2009 NDAA also required the Department to establish policies and guidance to ensure “the proper development, assignment, and employment of members of the armed forces in the acquisition field.” The provision directs the Department to develop a career path aimed at attracting the highest quality candidates with opportunities for command and senior noncommissioned officer positions. The legislation requires that the Department have the number of qualified and trained military needed to ensure the “optimum management of the acquisition function” and “the appropriate use of military personnel in contingency contracting.” The provision also expressly required that a sufficient number of general and flag officer positions be reserved to ensure that military personnel have the opportunity for advancement and promotion in the acquisition field.

Recommendations Related to the Acquisition Workforce

Recommendation 3.1: The Department should establish a clear and attractive career path for civilians in acquisition, in addition to military personnel, in the acquisition field.⁵⁴

DAWIA called upon the Secretary of Defense, through the Under Secretary for Acquisition, Technology and Logistics, to “*ensure that appropriate career paths for civilian and military personnel who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of civilians and members of the armed forces to the most senior acquisition positions.*” “ The Gansler

⁵⁴ Recommendation 3.1 was influenced by Representative Coffman’s input on the need to recruit, train, and retain a professional and experienced acquisition workforce.

Commission report on the Army clearly showed that the DAWIA mandate for the military had fallen short. As a result, the congress took steps (as noted above) to require the development of career paths for military personnel. The panel believes that similar emphasis and focus must be re-instated for civilians.

The Department's need for acquisition personnel extends beyond contracting officials to system engineers, development planners, software engineers, cost estimators, developmental testers and other highly skilled professionals. The quality of the new employees is at least as important as the quantity. The Fiscal Year 2010 National Defense Authorization Act included a provision (section 112) that authorizes the development of a leadership recruitment and development program (the Defense Civilian Leadership Program). The program should provide the DOD with an important tool to recruit individuals with the academic merit, work experience and demonstrated leadership skills necessary to build the most effective acquisition workforce possible.

Recommendation 3.2: The Department should fully implement the performance management and hiring reforms provided in Section 1113 of the Fiscal Year 2010 National Defense Authorization Act.⁵⁵

The Department needs flexibility to efficiently hire qualified new employees, and to manage its workforce in a manner that promotes superior performance; this is a particularly critical aspect of acquisition accountability. The FY2010 NDAA authorized the Secretary, in coordination with the Director of the Office of Personnel Management, to develop new regulations for the civilian workforce which include fair, credible, and transparent methods for hiring and assigning personnel, and for appraising employee performance. As noted in the conference report accompanying the NDAA, the Department should be able to exercise these flexibilities consistent with the existing General Schedule (GS) pay system, without the need for any legislative change to that system – although regulatory revisions, or internal policy guidance, may be needed. Such flexibilities would include quality step increases, cash awards for performance, various non-cash incentive awards (such as compensatory time), recruitment and retention flexibilities, etc. However, the panel recognizes and is willing to consider legislation that might be needed to address pay increases or bonus payments, classification or other issues related to the GS system that might hinder the ability of the Department to implement a fair and transparent performance management system. The Panel further notes that members of the acquisition workforce who consistently fail to meet performance standards should also face consequences for poor performance with appropriate procedures for warnings during performance evaluations and due process.

⁵⁵ Recommendation 3.2 was influenced by Chairman Andrews and Representative Cooper's input on the need to create meaningful rewards and incentives and accountability for the acquisition workforce.

The federal employee unions representing the acquisition workforce are a critical partner in the development of any performance management system and should be involved at all stages of any changes to workforce conditions. Specifically, the unions must be able to bargain on provisions aligning performance management and pay or bonuses with the evaluation and audit mechanisms created pursuant to Part II of this report.

Recommendation 3.3: The Department should incorporate lessons learned from and consider extending the Acquisition Workforce Demonstration Program.⁵⁶

The Congress authorized the Secretary of Defense to undertake a demonstration program to determine the feasibility or desirability of various proposals for improving personnel management policies and procedures that apply to the acquisition workforce, and supporting personnel. This is currently a five year program, limited to 120,000, which expires in 2012. The Department should extend the successful elements of this program using the acquisition workforce as a model for managing its human capital.

Recommendation 3.4: The Department should mandate clear responsibility for the military services (service secretaries and service chiefs) to staff and train their buying activities appropriately to meet performance standards.⁵⁷

As part of this effort, the military services should enhance their incentive programs that encourage employees to seek cost savings. For example, the Navy and Air Force each have programs that make cash awards or personal decorations to employees that make suggestions for savings or process improvements that benefit their organization.

Labor and management together should develop organization goals (e.g., for cost savings, efficiency improvements, etc) that, if met, would provide rewards that are shared across the component. This promotes and rewards teamwork, and allows employees to focus on factors that they actually have some control over.

Recommendation 3.5: The Department should require periodic recertification/mandatory continuing education for members of the workforce previously certified.⁵⁸

While the Department has established a certification process, through DAWIA, to advance contracting personnel, there appears to be no requirement for periodic renewal of an

⁵⁶ Recommendation 3.3 was influenced by Chairman Andrews and Representative Cooper's input on the need to develop and adopt flexibilities for the management of the acquisition workforce.

⁵⁷ Recommendation 3.4 was influenced by Representatives Cooper and Ellsworth's input on the need to clarify the accountability of the military service chiefs for managing the acquisition workforce.

⁵⁸ Recommendation 3.5 was influenced by Representative Coffman's input on the need to train and retain a professional and experienced acquisition workforce. And by testimony of Dr. Daniel Nussbaum received at the Panel's hearing on May 19, 2009 entitled "Measuring Performance: Developing Good Acquisition Metrics."

individual's certification. There are requirements to participate in continuous learning, but nothing that mandates what those courses must be in to keep the certification up-to-date. In addition, a greater focus in training also should be placed in the areas of services contracting, information technology, and rapid acquisition.

Furthermore, specific focus should be given to courses in cost estimating. According to Dr. Daniel Nussbaum of the Naval Postgraduate School, cost estimating is not included in any undergraduate curricula. Courses taught on financial economics do not address the underlying sources for cost estimating. Yet sound cost estimating is essential to the acquisition process. Improved training – and certification requirements – in cost estimating should be considered a core acquisition requirement. Consideration should be given to a cost estimating intern program.

PART IV: FINANCIAL MANAGEMENT AND AUDIT READINESS

GAO has repeatedly reported on the vulnerability of the Department's financial management systems. In its most recent update to its High Risk series, GAO found that, *“Weaknesses in DOD's financial management adversely affect not only the reliability of reported financial data, but also the efficiency and effectiveness of its business operations. Transforming DOD's financial management operations to provide timely, reliable, accurate, and useful information for management operations, including financial reporting and decision making, is a significant challenge. To date, the U.S. Army Corps of Engineers, Civil Works has achieved an unqualified audit opinion on its financial statements. However, none of the military services have received favorable financial statement audit opinions, and the department has annually acknowledged that long-standing pervasive weaknesses in its business systems, processes, and controls have prevented auditors from determining the reliability of reported financial statement information.”*

The Panel remains concerned that the inability to provide accurate and timely financial information prevents the Department from adequately managing its acquisition programs and from implementing true acquisition reform. The implications of poor financial management stretch beyond the Department of Defense. Indeed, given that the Department is the largest agency in the federal government, owning 86 percent of the government's assets (estimated at \$4.6 trillion), it is essential that the Department maintain strong financial management and business systems that allow for comprehensive auditing, in order to improve financial management government-wide and to achieve an opinion on the U.S. Government's consolidated financial statements.

Several major pieces of legislation, such as the Chief Financial Officers (CFO) Act of 1990 (Public Law 101-576) and the Federal Financial Management Improvement Act of 1996 (Public Law 104-208) have required published financial statement audits, reporting by auditors regarding whether the Department's financial management systems comply substantially with federal accounting standards, and other measures intended to ensure financial management systems provide accurate, reliable, and timely financial management information. In response to a congressional mandate, the Department issued its first biennial Financial Improvement and Audit Readiness Plan in December 2005, to delineate its strategy for addressing financial management challenges and achieving clean audit opinions. This 2005 report projected that 69% of assets and 80% of liabilities would be “clean” by 2009; yet in the March 2009 report, the Department projects it will have only achieved an unqualified audit on 45% of its assets and liabilities by 2009. Unfortunately, the Department is falling behind its original plan to achieve full compliance with the law by 2017.

In response to the regression in the Department's compliance, last year Congress passed a

more detailed statutory requirement for the Secretary to develop a plan to ensure that the financial statements of the Department are validated as ready for audit by not later than September 30, 2017. Section 1003 of the National Defense Authorization Act for Fiscal Year 2010 also requires the Secretary to establish interim objectives, including objectives for the audit readiness of each of the military departments and a schedule of milestones for elements of the military departments and financial statements of the military departments to be made ready for audit.

Recommendations Related to Financial Management and Audit Readiness

Recommendation 4.1: The Panel encourages the Secretary of Defense to make compliance with financial management and audit readiness standards a top priority. The Panel also recommends that each Chief Management Officer develop and implement a specific plan to become compliant with the law well in advance of 2017.⁵⁹

The Panel finds that it is no longer excusable to allow poor business systems, a deficiency of resource allocation, or a lack of commitment from senior leadership to foster waste or non-accountability to the United States taxpayer. Despite the magnitude of the challenge, the Department should be able to make significant progress in the near term. Failure to do so is fundamentally incompatible with the spirit of acquisition reform.

Recommendation 4.2: The Panel believes that if the Department fails to make considerable improvements in its financial management and audit readiness, appropriate penalties or withholds should be considered by the congressional defense committees.⁶⁰

The Panel recognizes that implementation of these plans will be daunting. However, following the passage of the Sarbanes-Oxley Act of 2002 (Public Law 107-204), publicly traded corporations in the United States were also forced to make difficult changes, or face severe penalties for similar deficiencies in financial management and accountability.

⁵⁹ Recommendation 4.1 was influenced by Ranking Member Conaway's input on the need for an aggressive approach to financial management reform.

⁶⁰ Recommendation 4.2 was influenced by Ranking Member Conaway's input on the need for accountability within the Department for financial management reform.

PART V: GETTING THE MOST FROM THE INDUSTRIAL BASE

The Panel notes that the management of the industrial base has been a challenge for the Department dating back to the creation of the Armed Forces. Discussions of the industrial base often focus on retaining unique and perishable defense industrial capabilities. This is indeed, an important strategic priority for the Department. However, the Panel believes that priority also must be placed on giving the Department access to as much of the country's total industrial base as possible. The Panel notes that many innovative technologies are being developed at smaller firms, and that even among larger firms, companies that are primarily commercial in nature have been the technology leaders in recent years more so than those in the traditional defense industrial base.

Recommendations Related to Industrial Base

Recommendation 5.1: The Department should work the Department of Commerce, Small Business Administration, General Services Administration, and the private sector to proactively notify relevant firms, especially small businesses, of contract solicitations rather than only relying on firms to find those notifications on FedBizOpps.⁶¹

The Competition in Contracting Act (CICA) and the FAR require federal agencies, with certain exceptions, to publicly provide notice of solicitations for contracts. However, the simple posting of a solicitation notice on a website does not represent a concerted effort to push information about potential contracts to relevant firms. The Panel believes the Department would benefit by utilizing resources from the Department of Commerce, Small Business Administration, General Service Administration, and the private sector to directly notify firms in relevant industrial classifications of upcoming contract awards. A small investment in additional outreach to industry could demonstrate a large return in increased competition, lower prices, and innovation.

Recommendation 5.2: The Department should enhance its annual analysis of commercial price trends so that it can be used as a tool to identify and eliminate improper pricing. The Department should develop tools to collect and make available to contracting officers throughout the Department information on prices paid by DOD buying activities for such items.⁶²

The Panel believes that the Department could utilize newly emerging data tools to compile better information on typical pricing of commercial items as well as prices paid by DOD

⁶¹ Recommendation 5.1 was influenced by Chairman Andrews input on the need for the Department to do a better job reaching out and identifying potential contractors, particularly among small businesses

⁶² Recommendation 5.2 was influenced by Chairman Andrews input on the need to ensure that the Department is able to identify and avoid unwarranted price fluctuations on commercial items.

buying activities for common items to determine where the Department is overpaying for such items. The Panel notes that section 803 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261) requires the Department to perform an analysis of and report on commercial price trends.⁶³ However, the Department's reports have only focused on whether the entirety of the Department's commercial purchases are within an approximate range with commercial prices for similar purchases. The intent of the report required by section 803 was to generate data that could help identify items and categories of commercial purchases where the Department was not obtaining fair pricing. The Panel believes the Department should revisit this analysis using the more sophisticated data analysis tools available today as a means of identifying areas of improper pricing and poor performance.

Recommendation 5.3: Congress should repeal the 3% contract payment withholding requirement.⁶⁴

The Panel notes that Congress created a new obstacle to federal agencies accessing the commercial marketplace when it established a requirement that agencies withhold 3% of all contract payments in anticipation of taxes owed to the Treasury in section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222). This requirement is currently scheduled to take effect in 2012. Although the Panel is deeply concerned about firms that are delinquent on taxes getting defense contracts, it believes that this section will substantially discourage commercial firms that are tax compliant from bidding on defense contracts and that this requirement should not be applied to the Department's contracts.

Recommendation 5.4: The Department should identify potential contractors and grantees with serious tax delinquencies and include that information in databases relating to past performance and contractor integrity.⁶⁵

The Panel believes that instead of withholding payments from all firms regardless of their tax status, the Department should identify and target firms that have actually been adjudicated as seriously delinquent on their taxes. The Panel notes that the FAR was revised in 2008 to require contractors to submit a certification of non-delinquency when submitting bids on federal contracts. The President on January 20, 2010 directed the Internal Revenue Services to review the accuracy of these certifications. Failure to submit such certification or the submission of a false certification should be noted in both the Past Performance Information Retrieval System (PPIRS) and the contractor integrity database created pursuant to section 872 of the Duncan

⁶³ The initial requirement expired in 2001 but has been extended multiple times by Congress

⁶⁴ Recommendation 5.3 was influenced by the testimony of Mr. Richard Sylvester received at the Panel's hearing on September 17, 2009 entitled "The Department of Defense and Industry: Does DOD Effectively Manage its Industrial Base and Match its Acquisition Strategies to the Marketplace?"

⁶⁵ Recommendation 5.4 was influenced by the input of Representative Ellsworth on the need for the Department to do business with reputable contractors.

Hunter National Defense Authorization Act for Fiscal Year 2009. Contracting officers are already required to review these databases before making the determination that a firm is a responsible bidder. The Panel also notes favorably that legislation has been introduced in Congress, H.R. 572, which would codify the FAR requirement to submit a certification of non-delinquency, require firms to authorize the disclosure of seriously delinquent tax debts by the Treasury, and would include recipients of grants in these restrictions. The Panel believes that firms which have resolved their tax delinquencies should be provided the ability to enter that information into PPIRS and the contractor integrity database on an expedited basis.

Recommendation 5.5: The Department should review the conclusions of GAO’s ongoing study of the costs of contracting with firms with questionable employment practices when it is completed and take appropriate action on any GAO recommendations.⁶⁶

The Panel received testimony indicating that certain federal contractors have histories of employment law violations and of low pay and poor benefits. The testimony indicated that these contractors may gain an unfair competitive advantage over responsible contractors and ultimately cost more to the government through their employees’ usage of government benefit programs. GAO has undertaken a review of these issues. The Panel believes that the Department should carefully examine GAO’s recommendations, if any, as a result of this review and determine whether the Department should take actions to limit such practices.

Recommendation 5.6: The Department should review the GAO report of October 23, 2009 on fraud and abuse in the SDVOB program and take steps to eliminate such fraud and abuse in defense contracting.⁶⁷

GAO released a report on October 23, 2009 entitled, “Service Disabled Veteran-Owned Small Business Program: Case Studies Show Fraud and Abuse Allowed Ineligible Firms to Obtain Millions of Dollars in Contracts” which identified \$100 million of contracts preferentially awarded to firms under the set-aside program for Service Disabled Veteran-Owned Small Business (SDVOB) program even though the firms did not actually qualify to participate in the program. The award of contracts to these firms denied actual SDVOBs from obtaining these contracts.

⁶⁶ Recommendation 5.5 was influenced by the testimony of Dr. David Madland, received at the Panel’s hearing on September 17, 2009 entitled “The Department of Defense and Industry: Does DOD Effectively Manage its Industrial Base and Match its Acquisition Strategies to the Marketplace?” Representative Patrick Murphy attended the hearing and requested testimony on this topic.

⁶⁷ Recommendation 5.6 was influenced by Representative Ellsworth, who brought the GAO report to the Panel’s attention.

Recommendation 5.7: The Department should consider shifting the responsibility for certification of contractor business systems to independent teams within or outside of DCAA and DCAA should allocate its audit resources on the basis of risk.⁶⁸

The Panel received compelling testimony from GAO and from the Defense Contract Audit Agency (DCAA) about the methodological difficulties experienced at multiple DCAA field offices and on multiple DCAA audits. These difficulties have undermined the independence of DCAA audits and led to audit conclusions that are unsupported by evidence. DCAA has initiated a number of steps to strengthen its workforce, reestablish audit independence, and reinvigorate its audit culture. The Panel supports these measures and supports GAO's recommendation that DCAA allocate its audit resources on the basis of risk.

The Panel notes that DCAA's role in certifying contractor business systems may be difficult to reconcile with its role auditing the information produced using those systems. The Department should consider creating functional separation within DCAA between those who certify contractor business systems and those who audit the contractor, or consider shifting the business system certification responsibility to a different agency.

Recommendation 5.8: The Department should consider the totality of the factors required to be considered under section 2306b(a) of title 10 United States Code when deciding whether to request multiyear procurement authority.⁶⁹

The Panel notes that multiyear procurement contracts are a potentially useful tool in defense acquisition that allow the Department to invest in production improvements over several years to reduce production costs. Multiyear procurement contracts provide funding stability for the program, but require the Department to commit to substantial termination liability, reducing the Department's flexibility and incurring risk for waste if the Department's procurement plans change significantly during the course of the multiyear leading the Department to terminate the contract. Multiyear procurement authority is best used on items with mature designs where the desired production quantities are well established and the potential savings to the Department are considered "substantial."

In the National Defense Authorization Act for Fiscal Year 2008 (P.L. 110-181), Congress debated the criteria for approving multiyear procurements. The Senate proposed changing the statute that governs multiyear procurement, section 2306b of title 10, United States Code, to define "substantial savings" as meaning savings of more than 10%. The Congress ultimately decided to not to define the meaning of "substantial savings" in statute, but included report

⁶⁸ Recommendation 5.7 was influenced by the testimony of Mr. Gregory Kutz at the Panel's hearing on October 15, 2009 entitled "Can the Department of Defense Protect Taxpayers When It Pays Its Contractors?"

⁶⁹ Recommendation 5.8 was influenced by the input of Representative Coffman on the need to enhance program stability and provide predictability to the Department's contractors.

language stating that the term “*means savings that exceed 10% of the total costs of carrying out the program through annual contracts, except that multiyear contracts for major systems providing savings estimated at less than 10 percent should only be considered if the Department presents an exceptionally strong case that the proposal meets the other requirements of section 2306b(a).*” The Panel notes, however, that in response to a question about a potential multiyear for the F/A 18 during his posture hearing before the House Armed Services Committee on February 3, 2010, the Secretary of Defense testified that the Department declined to request multiyear procurement authority for the F/A 18 because the projected savings was 6.5%, well short of 10%. The Panel is concerned that the Department may be rigidly applying the very standard that Congress explicitly declined to impose. The Panel believes that the decision to request multiyear procurement authority should be based on the totality of the factors required to be considered under section 2306b(a) of title 10, United States Code, not solely on the basis of whether the projected savings are more than 10%.

Appendix A: Panel on Defense Acquisition Reform Work Plan

Panel Members

Rob Andrews, NJ, Chairman
Jim Cooper, TN
Brad Ellsworth, IN
Joe Sestak, PA
Mike Conaway, TX, Ranking Member
Duncan Hunter, CA
Mike Coffman, CO

The panel will examine the defense acquisition system to evaluate its effectiveness in meeting two critical, and sometimes conflicting, goals: 1) Providing the best available services, supplies, equipment and technology to the warfighter when they are needed and 2) Providing best value to the taxpayer for every dollar expended.

In examining the defense acquisition system, the panel will focus on 5 primary issues:

1. How does one reasonably measure the ability of the defense acquisition system to meet the panel's two critical goals?
2. Is the current defense acquisition system effectively meeting these goals, and if not, what are the root causes of the system's failure?
 - a. How do the requirements process and the budget process influence acquisition outcomes?
 - b. Does the defense acquisition system schedule major decision points and bring issues for review at the right times – when the appropriate information is available to inform decision making?
 - c. Are the right people at the right level making decisions and provided with the authority to carry them out?
 - d. Does the system generate or have access to the right knowledge and information to enable good decisions?
 - e. Do the people who implement the system (i.e. the acquisition workforce) exist in the correct numbers and have the right training to execute decisions and run programs efficiently?
3. What administrative or cultural pressures, challenges, or negative incentives lead to inefficiencies in the system producing bad outcomes?
4. What proposals have been made to reform the defense acquisition system in studies performed by others?
5. What changes are required to ensure that the defense acquisition system is best designed and operated to satisfy the panel's two critical goals?