

Federal News Network

By: Jason Miller | January 16, 2019

5 'bold' recommendations to improve DoD acquisition

Congress and the Defense Department are paying close attention to recommendations coming from the [Section 809 panel](#) to change the military's acquisition process.

The House and Senate Armed Service committees added every idea from the group's May 2017 [interim report](#) as well as many of the recommendations from the panel's January 2018 [volume one report](#) to recent Defense authorization bills, said David Drabkin, the panel's chairman.

"During this process, we have met frequently with both the House Armed Services Committee, the Senate Armed Services Committee, and on occasion we have met with the House Appropriations Defense subcommittee and Senate Appropriations subcommittee on Defense, and have worked closely with the department as you can see on the panel, three of the department's acquisition executives have been a part of the panel itself," Drabkin said Tuesday during the roll out of the [volume 3 recommendations](#) in Washington, D.C. "We can't assure Congress will accept our work, but we have an indication that they are very interested. As you look around the room, you can see members from the staff of the HASC and SASC sitting in the meeting today."

So with the congressionally-mandated group of public-private sector experts issuing their [third and final set of recommendations](#) Tuesday detailing 58 new ones across 13 sections, the likelihood of many of these proposals advancing is good. In all, the panel made 93 recommendations, provide implementation plans and legislative language across more than 1,000 pages and three volumes of work since 2016.

"We've made recommendations which are bold and you are going to have to wait in the department for some of those for Congress to legislate in order to give you the authority to do those things," Drabkin said. "But many, many of the things we recommended can be done by the department to a greater or lesser extent."



David Drabkin, chairman of the Section 809 panel, said they made some bold recommendations in the final report.

Here are five of those bold recommendations in order of importance that you should pay close attention to over the next 12-18 months. This is not to say that all 53 new recommendations aren't bold or worthwhile, these are just five that stood out.

No. 51: Mitigate the negative effect of CRs by allowing regular appropriations to remain available for a standardized duration from date of enactment.

The problem with continuing resolutions and getting agencies their funding late in the fiscal year, but for the military with 50 percent of the discretionary spending the problem is compounded. The 809 panel states, "The value of strategic planning is diluted when acquisition personnel are uncertain how much money will eventually be made available. Vendors have greater leverage over the government when they know that funds must be obligated on a more urgent timeframe. The workforce, which is already heavily worked at the end of a regular fiscal year, becomes even more overworked at that time. This situation causes indirect problems with morale and retention."

The panel recommends that Congress modify the definition of "fiscal year."

"Congress should allow for CR-triggered automatic flexibility in timing of expenditures. For instance, Congress could pass a law allowing for minimum 1-year validity of all funding appropriated under CRs or regular appropriations," the report states. "This measure would, if a regular appropriations bill were enacted prior to the start of the fiscal year, have no effect. If Congress chose to fund the government under one or more CRs, however, the measure would eliminate the budget-compression effect that currently takes

place when Congress fails to appropriate full-year funding until well into the fiscal year.”

Baseline needed

No. 41: Establish sustainment program baseline, implement key enablers of sustainment and elevate sustainment to equal standing with development and procurement, and improve the defense materiel enterprise focus on weapon systems readiness.

Joe Dyer, a retired vice admiral and former commander of the Naval Air Systems Command, said the recommendations under the portfolio management section focus on the execution level and around Defensewide capabilities.

For too long, he said, sustainment, or readiness, has been the step-child to development and procurement because of the oversight both receive so this recommendation aims to solve that systemic view.

“Sustainment costs constitute some 70 percent of the lifecycle cost of our Defense weapons systems. They are dramatically influenced by our early decisions that pre-ordain costs,” Dyer said. “That high-cost is much like a variable rate mortgage for a young family. It is cannibalizing our ability to recapitalize and invest in the future, and it carries with it an uncertainty that carries for years and years to come.”

Dyer said the baseline would be akin to the acquisition baseline.

“It’s a tripwire that will alert us to erosion of either requirements or funding or management attention, and to put sustainment on the level and on par with procurement and with development and production,” he said. “This recommendation comes with a caution. It needs to come in company with real management reserve, that’s part of giving portfolio manager and program managers the kind of sea room they need. Without management reserve and without a tripwire, we will leave program managers with a problem they cannot resolve. The dirty little secret is logistics, readiness and sustainment is where many acquisition programs when they are faced with unexpected problems and cost overruns.”

No. 44: Exempt DoD from Clinger-Cohen Act provisions in Title 40

Many believe the 22-year-old law has become too arduous for DoD because it [requires too much documentation](#) and is too checklist oriented, and complying with it adds little value.



Elliott Branch is the deputy assistant secretary for acquisition and procurement in the Office of the Secretary of the Navy for Research, Development and Acquisition.

“CCA compliance is confirmed at major milestones, after full requirements have been developed. It does not guarantee systems are initially designed for interoperability, information assurance, or risk management framework compliance, contrary to evidence-based practice,” the report states. “Exempting DoD from the Clinger-Cohen Act is one step in streamlining IT acquisition, but not the final step. DoD must continue to shift toward more strategic, collaborative processes that restore accountability to the appropriate individuals. It is imperative that DoD continue to follow many of the best practices mandated by CCA and enforced by newer laws, including continuous assurance of cybersecurity, business process reengineering and the adoption of commercial technology and processes. Congress should not repeal CCA provisions altogether, because they may remain useful for civilian agencies.”

Elliott Branch, the deputy assistant secretary for acquisition and procurement in the Office of the Secretary of the Navy for Research, Development and Acquisition, said the authors of Clinger-Cohen did not necessarily focus on DoD, and other similar agencies like NASA and the Energy Department, to implement the law because they had more mature processes to manage complex IT projects.

“The question in the Navy and other services and departments that have a fairly robust requirements, resources and acquisition system, is what is the role of the CIO?” Branch said. “That role, in my observation at least in DoD, has been driven by personality as much as anything. It vacillates from trying to get control of the requirements, resources and acquisition process, which is a losing battle because it’s got its own statutory authority, and being a setter of standards, which is a job probably better done by the private sector, who for the most part are highly technical. Essentially, consistent with some of our other recommendations to eliminate paper that do not add value, you take the pieces of Clinger-Cohen that a decision-maker needs to have make a good decision about an acquisition strategy and fold them into a program plan and get rid of the rest.”

Budget, funding changes

No. 42: Reduce budget uncertainty, increase funding flexibility and enhance ability to effectively execute sustainment plans, and address emergent sustainment requirements.

The panel states that DoD struggles to estimate sustainment costs, which requires a combination of research, development, test and evaluation (RDT&E) procurement, and operation and maintenance (O&M) funding to successfully execute the full range of lifecycle sustainment actions.

“Stable funding is key to successful execution and having funding of the correct type in place at the right time requires program offices to forecast, program, and budget accurately for sustainment,” the report states.

The panel’s recommendation would let DoD move some of the sustainment activities to the investment accounts versus annual funding.

The panel said this would let program managers negotiate long-term supplier agreements to obtain savings on contractor supported systems, or performance-based logistics contracts.

“Although, for those activities still funded by O&M, the PM needs the increased flexibility to fund those requirements affected by continuing resolutions and O&M appropriations accounts should be allowed a 1-year, 5 percent carryover authority,” the report states.

Al Burman, the former administrator in the Office of Federal Procurement Policy and now president of Jefferson Consulting, said CRs are specifically painful for O&M programs where funding expires at the end of the fiscal year.

“Funding for 5 percent of the O&M account should be allowed to carry over into the next fiscal year. This would be one way to avoid making poor decisions at the end of the year based on the fear that if the money isn’t spent on something, whatever that might be, it will be taken away,” he said. “We’ve had a number of discussions with the folks in the DoD comptroller’s office of the various services and the technical issues were raised about how you are able to move the money into the next fiscal year and still preserve it so it can be used effectively as part of the prior year funding. There is no question this is going to be a technical challenge for people to do it. We know, for example, that the Defense Health Agency does have a very small carryover and the carryover lasts for a full year and it’s 1 percent. It’s to deal with the kinds of issues we’ve been addressing.”

Communication

No. 87: Establish a market intelligence capability throughout DoD to facilitate communication that enhances the government’s industry knowledge through open, two-way communication.

The panel clearly recognized through its research and interviews that the relationship between industry and contracting officers is constrained and risk aversion is the overarching approach to procurement.

The commissioners heard from industry and military services and agencies alike about how limited or highly-controlled market research has led to missed opportunities for DoD.

“We heard many common themes from those doing business with or considering doing business with the government. One complaint we heard repeatedly was in regard to the difficulty industry has in engaging in meaningful communication with government. The general consensus among industry and government is that communications are important, but for government personnel there seems to be a culture constraint that gets in the way,” said Larry Trovel, a retired colonel in the Air Force and a former policy representative on the Defense Acquisition Regulations Council. “There are strong urban leg-

ends arguing that communication between government and industry is dangerous, fraught with legal traps, only to be conducted under the close supervision of the contracting officer and frankly not worth the effort.”

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Trovel said the current FAR language promoting industry and government communications are confusing and partly to blame for these challenge.

The market intelligence capability would be a continuous two-way communications between contractors and government based on specific program portfolios.

The panel is promoting language from [OFPP's mythbuster memos](#).

“The panel offers recommendations that would take a much more direct approach to improving communications between government and industry. Rather than encouraging, authorizing or allowing communications, as it says today, it would ask Congress and DoD to take a heavier hand in exploding the urban legends and making ongoing and meaningful communications a common practice,” Trovel said.

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