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Pentagon mostly backs Section 809 panel's reform ideas, but says more research required

The Defense Department supports the majority of reforms recommended by a congressionally mandated panel, but says many of the group's proposals require further research or lawmaker intervention, according to a report signed by Pentagon acquisition chief Ellen Lord.

The Section 809 panel, named for the section of the Fiscal Year 2016 National Defense Authorization Act that created it, worked for more than two years to develop a strategy to streamline DOD's acquisition system.

The panel sent three volumes of recommendations to Congress and the Pentagon, the last of which was delivered in January.

[Lord's report, dated March 16](#) and obtained by *Inside Defense*, serves as the Pentagon's first detailed response to the panel's recommendations.

"Some recommendations have already been implemented or are in the process of being implemented," she wrote. "Others will take more time to consider, and if accepted, to develop and institutionalize. Many of the recommendations suggest elimination or modification to existing statutes; several have already been enacted by Congress. The department supports the continued effort to reduce outdated and overly burdensome statutes."

The panel's recommendations cover four basic concepts: Leverage the Dynamic Marketplace, allocate resources effectively, enable the workforce, and simplify acquisition.

Mostly, DOD supports the panel's ideas and has worked where it can to implement them.

However, DOD says some recommendations require additional research before it can support them.

For instance, the Section 809 panel recommends simplifying the selection of sources for commercial products and services.

Lord's report says more research is required in this area because "DOD's implementation of all recommendations related to commercial products and services must also be tempered by national security (operational security, supply chain integrity, cybersecurity, etc.) considerations, depending on the planned use of the commercial product."

Government officials and analysts who study defense acquisition have said DOD's and Congress' push for more commercial companies to enter the defense industrial base could be at odds with supply chain security concerns, especially if those companies do business in China.

The report also states more research is required to assess the panel's idea to establish a Supply Chain Assurance Council.

Additionally, the panel recommends replacing DOD's commercial buying procedures with "simplified, readily available procedures for procuring readily available products and services and readily available products and services with customization."

Lord's report says more research is required to evaluate the impact of "radical change" to commercial buying and lists a host of areas that could be affected.

"Impacts include using commercial buying procedures for almost all DOD requirements (including Patriot missiles), prohibitions on obtaining certified cost or pricing data to establish fair and reasonable prices, eliminating up-front transparency and reducing competition, eliminating small business set-asides and DOD's ability to effectively use automated systems such as the System for Award Management (SAM), and the prohibition on flow-down of Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses, including those pertaining to cyberterrorism, counterfeit parts, convict labor, child labor, prohibition of segregated facilities, equal opportunity, combating trafficking in persons, employment eligibility verification, workplace safety, kickbacks, whistleblower protection, and procurement integrity," the report states.

The panel also recommends updating laws to encourage purchasing from "nontraditional suppliers" by adopting exceptions for DOD on domestic purchasing preference requirements for commercial products, but again, DOD says more research is needed.

"Government-wide and DOD requirements exist to preserve critical manufacturing sectors needed for defense and to contribute to a stronger national economy," the report

states. "There is a risk that protected industries may languish and innovative products may not come to market."

Meanwhile, DOD fully supports the panel's recommendation to transition to a portfolio-based acquisition management model from one that is more program-centric. The report notes that such work has been underway for several years.

But DOD says more research is required before it can support the panel's recommendation to delegate below-threshold budgetary reprogramming decisions to portfolio acquisition executives.

"While this may be advantageous to portfolio managers, it could sub-optimize department-level decisions on how best to re-allocate funding to meet higher priority requirements in the year of execution," the report states.

The Pentagon supports the panel's recommendation to reduce bid protest processing time by eliminating the opportunity for vendors to lodge a protest with the Court of Federal Claims after filing at the Government Accountability Office.

DOD also supports the panel's recommendation to limit the jurisdiction of GAO and COFC to procurements in excess of $75,000.

While the panel recommends eliminating the Earned Value Management mandate for software programs using "agile methods," DOD disagrees, saying EVM or similar tools "must still be implemented to control cost, schedule, and technical performance risks," according to the report.

Lord's report concludes with praise for the "comprehensive roadmap" provided by the Section 809 panel.

"Ultimately, these reforms will provide our nation with increased warfighting capabilities in increasingly difficult environments, while remaining responsible to the American taxpayer," the report states. "The department already adopted many recommendations within the report, and will carefully research all remaining recommendations to determine how best to implement."