

# Advisory Panel on Streamlining and Codifying Acquisition Regulations



A Roadmap to the  
Section 809 Panel Reports  
February 2019



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## INTRODUCTION

At its first meeting in 2016, the Section 809 Panel was alerted to the alarming gap between the capabilities within DoD and the continuously evolving threat DoD must prepare to meet. Staff members from the House and Senate Armed Services Committees voiced concern that the current defense acquisition system could not maneuver inside the turn of the nation's near-peer competitors and nonstate actors, which are not bound by the same acquisition rules as DoD. The panel understood its mission was to provide recommendations that would allow DoD to adapt and deliver capability at market speeds, while ensuring that DoD remained true to its commitment to promote competition, provide transparency in its actions, and maintain the integrity of the defense acquisition system. To be adequately prepared to address the concerns raised by the current international security environment, DoD must put its acquisition system on a war footing and adopt a mission-first approach.

In this war footing approach, rapidly and effectively acquiring warfighting capability and delivering it to Service Members takes precedence over achieving other public policy objectives. The Section 809 Panel has focused its efforts on modernizing defense acquisition for the 21st century and making recommendations that will enable DoD to more consistently buy what it needs in a timely and cost-effective manner. The panel's vision of a reformed defense acquisition system will reinvigorate DoD's technical superiority by reducing barriers that deny DoD opportune access to innovative technology and creative solutions from nontraditional companies.

The Section 809 Panel was charged with reviewing the acquisition regulations and statutes applicable to DoD with a view toward streamlining and improving the efficiency and effectiveness of the defense acquisition process. In the course of this review, Congress expected the panel to make recommendations for the amendment or repeal of regulations and statutes. The panel's recommendations are focused on satisfying this charge from Congress. Additionally, based on its review of applicable regulation and statute, the panel provided draft regulatory and statutory changes to assist DoD and Congress with implementing those recommendations.

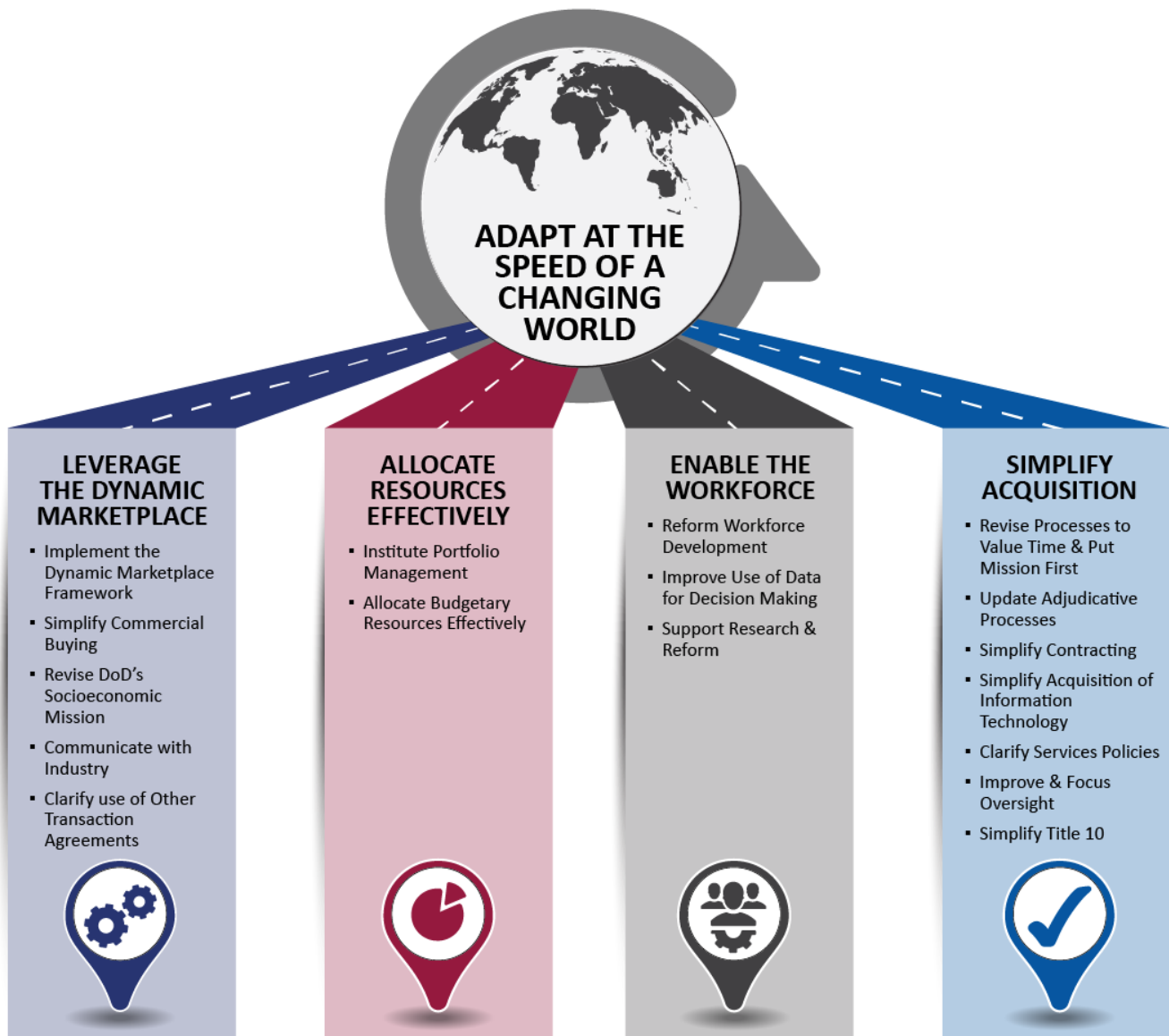
The Section 809 Panel has proposed 98 recommendations, some with multiple subrecommendations, which collectively provide a strategy for moving defense acquisition into the 21st century. Although released in four separate publications, these recommendations are not designed to be implemented piecemeal. Together they would reshape defense acquisition around the five concepts identified in the panel's *Interim Report*:

- Adapt at the speed of a changing world.
- Leverage the dynamic marketplace.
- Allocate resources effectively.
- Enable the workforce.
- Simplify acquisition.

All of the panel's recommendations work in concert to support the first concept of adapting at the speed of a changing world. This *Roadmap to the Section 809 Panel's Reports* organizes the recommendations thematically around the other four concepts, demonstrating how suggested changes to acquisition practices can produce each of these core outcomes. Although each recommendation is mapped to a specific concept, many of the proposed changes support multiple concepts. For instance, recommendations that reduce time-consuming redundancies in the contracting process both simplify acquisition and enable the workforce. The recommendation to replace DoD's commercial buying apparatus with a streamlined process for procuring readily available products and services both simplifies acquisition and leverages the dynamic marketplace. Readers looking for more details on the implementation of or rationale for individual recommendations can find that information in the *Interim Report* and *Volumes 1, 2, and 3* of the *Final Report*. The location of each recommendation in those publications is provided in this *Roadmap*. This document also provides brief summaries for most recommendations, except for those with self-explanatory titles.

## THE SECTION 809 PANEL'S ROADMAP TO SUCCESS

Recommendations to Revolutionize How DoD Conducts Business



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## LEVERAGE THE DYNAMIC MARKETPLACE

### Implement the Dynamic Workplace Framework

- Recommendation 35

### Simplify Commercial Buying

- Recommendations 1, 2, 3, 4, 28, 62, 63, 80, 92

### Revise DoD's Socioeconomic Mission

- Recommendations 21, 79, 64, 65

### Communicate with Industry

- Recommendations 84, 85, 86, 87

### Clarify use of Other Transaction Agreements

- Recommendation 81



## LEVERAGE THE DYNAMIC MARKETPLACE

A number of the Section 809 Panel's recommendations assist DoD in leveraging the dynamic marketplace. The most revolutionary of these recommendations is Recommendation 35, which focuses on buying readily available products and services. To remain a relevant business partner in the private sector and take optimal advantage of the innovation it offers, DoD must adjust its acquisition processes to meet the demands of the dynamic marketplace in which it operates. Additional recommendations aim to enable DoD to more effectively use the entire dynamic marketplace by updating existing practices governing commercial buying, contract clause flowdown, socioeconomic concerns, communications with industry, and use of Other Transaction agreements.

### Implement the Dynamic Marketplace Framework

Recommendation 35 charts a course for a radically simplified way of interacting with the private sector. It replaces DoD commercial buying processes with a process for acquiring products and services that are readily available and readily available with customization in the marketplace that better aligns with how the private sector procures such products and services. This revolutionary change to the way DoD conducts business includes recalibrating how DoD leverages competition in the marketplace and the department's role in achieving certain socioeconomic objectives. These changes are addressed in Recommendation 35 and Recommendations 64 and 65. The Dynamic Marketplace Framework also identifies a third category of transactions, defense-unique development. Recommendations throughout the panel's work aim to improve acquisition of defense-unique systems. The most significant and revolutionary of these recommend adopting portfolio-based management for DoD's acquisition programs (Recommendations 36–42).

- ➔ **Rec. 35** (*Volume 3, Section 1, p. 7*): Replace commercial buying and the existing simplified acquisition procedures and thresholds with simplified readily available procedures for procuring readily available products and services and readily available products and services with customization.

**Readily Available**

- No customization
- Rapid delivery
- Mostly products, some services
- Transparent market-based pricing, terms, and competition
- Typically multiple sources
- Limited procurement laws/policies apply
- Simplified procedures

**Readily Available w/ Customization**

- Customized using common, commercial processes
- Competitive solicitations may be needed
- Typically multiple sources
- Products, most DoD services
- Pricing from quotes
- Limited procurement laws/policies apply
- Simplified procedures
- No cost contracts

**Defense-Unique**

- Development financed by DoD
- DoD can dictate terms
- Competition limited or nonexistent
- Pricing based on development costs
- Products, few services
- Reduced compliance burdens and process redundancies
- New rapid acquisition authorities fully implemented with empowered users

**Simplify Commercial Buying**

The recommendation on readily available procedures constitutes a revolutionary change to DoD’s acquisition system, and the Section 809 Panel strongly urges Congress to adopt it. Because implementing this recommendation will take time, Congress should also adopt, and direct DoD to implement, the panel’s recommendations on improving commercial buying practices. Doing so will incrementally increase DoD’s access to innovation in the private-sector marketplace in advance of full implementation of the readily available procedures. The limitations on the existing system have led to commercial buying becoming less widespread in DoD than Congress intended. Only 18 percent of DoD’s total obligations in FY 2017 were for acquisition of commercial items, and commercial-item spending actually declined by 29 percent between FY 2012 and FY 2017. Reasons for this surprisingly low level of commercial buying in DoD include confusing terminology, inconsistent definitions, and application of inconsistent policies and procedures. The Section 809 Panel proposes clarifying definitions and streamlining commercial buying processes to better achieve Congress’s intent.

Although intellectual property rights play an important role in simplifying commercial buying, the panel did not address this topic in depth and instead coordinated with the Section 813 Panel, which developed targeted recommendations in this area. The Section 809 Panel’s recommendations on the Small Business Innovation Research (SBIR), Small Business Technology Transfer (STTR), and Rapid Innovation Fund (RIF) programs, and technical data policy for readily available products and services are complementary to the recommendations developed by the Section 813 Panel.

- ➔ **Rec. 1** (*Volume 1*, Section 1, p. 15): Revise definitions related to commercial buying to simplify their application and eliminate inconsistency.
  - The FAR’s commercial buying terms are confusing, inconsistently defined, or undefined altogether. DoD’s acquisition workforce has struggled to interpret and apply commercial buying policies and practices. Clarifying the related definitions to reflect congressional intent would enhance understanding of and preference for acquiring commercial items.
  - Enacted in part in Section 836 of the FY 2019 NDAA.
- ➔ **Rec. 2** (*Volume 1*, Section 1, p. 32): Minimize government-unique terms applicable to commercial buying.
  - The commercial buying provisions of the Federal Acquisition Streamlining Act, designed to limit the addition of new government unique terms and conditions to commercial contracts, have not succeeded. This recommendation would remove from the FAR Council and the DAR Council the





authority to determine which government-unique terms apply to commercial buying and leave that authority solely with Congress.

- Enacted in part in Sections 837 and 839 of the FY 2019 NDAA.

→ **Rec. 3** (*Volume 1*, Section 1, p. 43): Align and clarify FAR commercial termination language.

- Current FAR policy on termination of commercial contracts does not align with commercial practice. Policy guidance in the FAR should be reconciled, and language in the FAR should be rewritten to reflect fair compensation and the use of cure notices for terminations for cause.

→ **Rec. 4** (*Volume 1*, Section 1, p. 46): Revise DFARS sections related to rights in technical data policy for commercial products.

- Some DFARS clauses establish intellectual property rights for DoD that are not aligned with commercial practice. Policies elsewhere in the FAR and DFARS are generally adequate to protect DoD and balance interests of the government and contractors. Adopting policies aligned with commercial practice will remove barriers that inhibit access to innovations in the commercial market.

→ **Rec. 28** (*Volume 2*, Section 3, p. 102): Simplify the selection of sources for commercial products and services.

- In 1996 Congress authorized use of simplified acquisition procedures for procuring commercial products or services below a threshold currently set at \$7M. This authority has not been used to its full potential. Recommendation 28 streamlines the associated public notice statute, reorganizes and clarifies the simplified policies available under this authority, and mandates their use unless approved a level above the contracting officer.

→ **Rec. 62** (*Volume 3*, Section 6, p. 322): Update the FAR and DFARS to reduce burdens on DoD's commercial supply chain to decrease cost, prevent delays, remove barriers, and encourage innovation available to the Military Services.

- Many commercial and nontraditional firms are concerned about the compliance burdens imposed by flow-down clauses from both the government and prime contractors. Contractors' commercial supply chains may not comply with these requirements, or they may make the business decision to forgo government business rather than incur the cost of ensuring compliance. In either case, DoD may be denied access to the innovations available to the nation's adversaries. Recommendation 62 addresses this concern by extending to subcontracts the simplifications in Recommendations 1 and 2, which apply to prime contracts for commercial products and services.

→ **Rec. 63** (*Volume 3*, Section 6, p. 326): Create a policy of mitigating supply chain and performance risk through requirements documents.

- Vulnerabilities along the supply chain are often difficult to detect and can compromise government networks and operations. DoD attempts to mitigate these and other risks by imposing stringent compliance requirements on contractors and subcontractors through flow-down clauses in the FAR and DFARS. The DFARS is not an effective or responsive tool for developing and implementing supply chain risk policies. Recommendation 63 would move supply chain risk requirements into requirements channels and establish a Supply Chain Assurance Council that can bring appropriate technical expertise to bear quickly to develop and deploy policy solutions.



- **Rec. 80** (*Volume 3*, Section 7, p. 434): Preserve the preference for procuring commercial products and services when considering small business set-asides.
  - Currently, neither statute nor regulation provides an order of preference between the statute’s preference for acquiring commercial products or services and the requirement to procure certain products or services from small business. The panel recommends revising statutory guidance to clarify that the acquisition of commercial products and services has precedence over small-business set-asides.
- **Rec. 92** (*Volume 3*, Section 12, p. 512): Minimize the flowdown of government-unique terms in commercial buying by implementing Recommendation 2.
  - Sections of the FY 2018 and FY 2019 NDAs direct DoD to analyze contract clauses based on statute currently applicable to commercial buying, and with the goal of reducing the number of flow-down clauses, identify those that should remain. Given that DoD has failed to narrow the list of flow-down clauses in the past, despite having the authority to do so, this approach is unlikely to effectively reduce applicable flow-down clauses. The Section 809 Panel recommends these two provisions be rescinded and Congress instead adopt Recommendation 2.

## Refocus DoD’s Socioeconomic Mission

To achieve its *mission first* approach, the Section 809 Panel recommends DoD pivot from meeting small business goals unrelated to its mission to using small businesses to provide innovation in all aspects of delivering capability to warfighters. The panel recommends implementing a consolidated infrastructure that would allow DoD to execute a coherent small business strategy and build upon the successes of the SBIR, STTR, and RIF programs. The panel also recommends modifying existing authority for advanced payments in support of contract awards to provide small businesses needed capital, addressing an identified challenge for small businesses. Other recommendations update or amend socioeconomic provisions to create flexibility needed to leverage the vast, innovative marketplace.

- **Rec. 21** (*Volume 1*, Section 6, p. 167): Refocus DoD’s small business policies and programs to prioritize mission and advance warfighting capabilities and capacities.
  - 21a: Establish the infrastructure necessary to create and execute a DoD small business strategy, ensuring alignment of DoD’s small business programs with the agency’s critical needs.
    - Enacted in part in Sections 851, 858, and 859 of the FY 2019 NDAA; DoD SB Strategy under 10 U.S.C. § 2283 (added by Section 851) is due in February of 2019.
  - 21b: Build on the successes of the SBIR/STTR and RIF programs. Increase the funding for SBIR/STTR and RIF programs and in the process provide greater incentive for program managers to use small businesses to provide innovation to DoD.
  - 21c: Enable innovation in the acquisition system and among industry partners. Create incentives to bring nontraditional suppliers of innovation into the DoD marketplace.
- **Rec. 64** (*Volume 3*, Section 6, p. 330): Update socioeconomic laws to encourage purchasing from nontraditional suppliers by (a) adopting exceptions for DoD to domestic purchasing preference



requirements for commercial products, and (b) adopting a public interest exception and procedures for the Berry Amendment identical to the ones that exist for the Buy American Act.

- **Rec. 65** (*Volume 3*, Section 6, p. 334): Increase the acquisition thresholds of the Davis–Bacon Act, the Walsh–Healey Public Contracts Act, and the Services Contract Act to \$2 million.
- **Rec. 79** (*Volume 3*, Section 7, p. 431): Enable enhanced use of advanced payments, at time of contract award, to small businesses.
  - Financing small businesses that wish to perform in the DoD marketplace is an important way to remove the barrier that contract financing presents for small businesses. This recommendation further supports the panel’s recommendation to pivot DoD’s small business program.

## Communicate with Industry

Without appropriate and on-going communication with industry, warfighters are likely to receive costly, less advanced equipment later than needed. In many cases, the FAR and other regulations allow for more DoD interaction with industry than is common practice.

- **Rec. 84** (*Volume 3*, Section 8, p. 456): Direct DoD to communicate with the marketplace concerning acquisition from development of the need/requirement through contract closeout, final payment, and disposal.
  - Congress has authorized and encouraged communication, but DoD and industry are still reluctant to communicate openly about acquisitions. Directing communication and requiring reports on implementation of this direction incentivizes more transparent behavior. This changed behavior should lead to a new culture of collaboration.
- **Rec. 85** (*Volume 3*, Section 8, p. 463): Establish a market liaison at each acquisition activity to facilitate communication with industry.
  - To implement the change to directed communication, a function should be identified and established in every acquisition activity, including portfolios and contracting activities.
- **Rec. 86** (*Volume 3*, Section 8, p. 467): Encourage greater interaction with industry during market research.
  - Each acquisition activity must provide not only guidance but also leadership driving the cultural change necessary to ensure that market research is thorough and results in engagement that goes beyond the traditional defense industrial base.
- **Rec. 87** (*Volume 3*, Section 8, p. 472): Establish a market intelligence capability throughout DoD to facilitate communication that enhances the government’s industry knowledge through open, two-way communication.
  - This recommendation requires DoD to create a function within each acquisition activity, not just identify an individual tasked with additional duties. To be successful, the intelligence gathered must be shared through various means within DoD’s acquisition community.



## Clarify Use of Other Transaction Agreements

A separate recommendation clarifies and expands authorities for follow-on production under existing Other Transaction (OT) authorities. Clear, established authorities for follow-on production provide a valuable, streamlined path for moving innovative capabilities from prototyping to production for projects awarded under OT agreements.

- **Rec. 81** (*Volume 3, Section 7, p. 440*): Clarify and expand the authority to use Other Transaction agreements for production.
  - This recommendation opens the aperture on the use of production OT agreements by providing the senior acquisition executive, or equivalent, with the authority to approve the use of production OTs where the current statute does not authorize the use of a production OT. This recommendation will ensure that DoD has access to innovation from those small and nontraditional companies that cannot, or will not, enter into a FAR-based contract with DoD.

## ALLOCATE RESOURCES EFFECTIVELY

### Institute Portfolio Management

- Recommendations 36, 37, 38, 39, 40, 41, 42

### Allocate Budgetary Resources Effectively

- Recommendations 46-58



## ALLOCATE RESOURCES EFFECTIVELY

Two sets of recommendations work to achieve the goal of allocating DoD's resources more effectively. By instituting portfolio management and enabling DoD to operate with more agility in how it executes acquisitions, resources and capabilities will be better aligned.

### Institute Portfolio Management

The Section 809 Panel recommends bold reforms to restructure DoD acquisition from a program-centric model to a total lifecycle, multitiered capability portfolio management framework. This portfolio framework reforms existing structures to improve capital investments, management processes, and interactions with the supplier base in both the near and long term. The capability portfolio management framework offers DoD structures and relationships that mirror flexibility found in commercial markets. This framework unifies responsibility and authority for acquisition elements such as requirements setting and program sustainment to facilitate technical and financial tradeoffs in capital investment management. Acquisition programs in this construct would be governed at the portfolio level, enabling continuous assessment of warfighting capabilities at both the execution and enterprise levels. The panel makes a similar recommendation to institute portfolio management for defense business systems in Recommendation 16.

The seven recommendations in this section offer comprehensive policy and strategy changes to enable DoD's development and implementation of portfolio management. The panel has included a draft revision of DoDD 5000.01, The Defense Acquisition System, titled The Defense Capabilities Acquisition and Sustainment Framework. This revision addresses the tensions between operational needs (effectiveness) and resource availability (efficiency) in a single directive that provides management principles for the collaborative development and sustainment of all defense capabilities within the multitiered portfolio management framework. This framework envisions close cooperation between those responsible and accountable for requirements; the planning, programming, budgeting, and execution (PPBE) community; and acquisition organizations. These recommendations suggest changes to requirements generation, the nature of the requirements management workforce and sustainment, and budgeting within the portfolio context.

- **Rec. 36** (*Volume 3*, Section 2, p. 53): Transition from a program-centric execution model to a portfolio execution model.
  - This recommendation creates empowered and accountable portfolio acquisition executives (PAEs) in Military Services and Defense Agencies. It provides PAEs with a broad view of capabilities that enables timely, agile, innovative, and balanced investment decisions to deliver and sustain warfighter capabilities.
- **Rec. 37** (*Volume 3*, Section 2, p. 64): Implement a defensewide enterprise capability portfolio framework that provides an enterprise view of existing and planned capabilities, to ensure delivery of integrated and innovative solutions to meet strategic objectives.
  - This recommendation creates a set of enterprise level capability portfolios based on current functional capability boards that would provide senior DoD decision makers with an overview of fielded, developing, and planned capabilities across DoD. The enterprise level portfolio environment (led by nominees from both the Office of the Secretary of Defense and the Joint Chiefs of Staff) would enable closer collaboration among the three major elements of capability development and sustainment: requirements, PPBE, and acquisition.
- **Rec. 38** (*Volume 3*, Section 2, p. 76): Implement best practices for portfolio management.
  - Industry portfolio management standards provide DoD a basis for developing and implementing an effective and efficient multitiered portfolio framework. Included in this section are overviews of industry best practices, including critical questions to drive a long-term (20 year) portfolio investment strategy, portfolio-level strategic plans and roadmap, value management (balancing benefits, risks, and resources), and mission engineering approaches to map system capabilities to mission needs that would all apply to execution (Recommendation 36) and enterprise (Recommendation 37) portfolio tiers.
- **Rec. 39** (*Volume 3*, Section 2, p. 87): Leverage a portfolio structure for requirements.
  - In the proposed portfolio structure, products and programs will continue to have requirements. In addition, new portfolio requirements will capture operational capabilities to inform decision making. This recommendation develops a capstone set of requirements for each portfolio, supporting both the current requirements process for programs and the transition from programs to portfolios.
- **Rec. 40** (*Volume 3*, Section 2, p. 98): Professionalize the requirements management workforce.
  - DoD requirements management cannot be accomplished effectively by having warfighters serving in ad-hoc roles for a short tour before returning to operational assignments. This recommendation proposes a centralized definition of the requirements management (RM) profession and a career path for both military and civilian RM professionals—and their combination as a force multiplier.
- **Rec. 41** (*Volume 3*, Section 2, p. 102): Establish a sustainment program baseline, implement key enablers of sustainment, elevate sustainment to equal standing with development and procurement, and improve the defense materiel enterprise focus on weapon system readiness.
  - Although sustainment is critical to supporting warfighting capability and is 70 percent of DoD spending on a weapon system during its lifecycle, it does not have the same standing, unity of command, or governing document that exists for the development, production, and fielding phases



of acquisition. This recommendation creates a sustainment program baseline (SPB) similar to the existing acquisition program baseline, managed by an empowered program manager responsible, and accountable for sustainment.

- **Rec. 42** (*Volume 3, Section 2, p. 121*): Reduce budgetary uncertainty, increase funding flexibility, and enhance the ability to effectively execute sustainment plans and address emergent sustainment requirements.
  - Budgetary uncertainty and limited funding flexibility have hampered DoD’s ability to effectively execute sustainment plans and address emergent sustainment requirements. This recommendation improves sustainment funding by increasing below-threshold reprogramming levels, extending the carry-over period, extending time to execute funding when affected by a continuing resolution, and clarifying Financial Management Regulation rules on reprogramming.

### Allocate Budgetary Resources Effectively

The Section 809 Panel dedicated a major line of effort to reducing inefficiency in the defense acquisition system funding process. Managing the defense budget is a complex undertaking, and DoD’s authorities are limited in some areas. The panel focused significant attention on providing flexibility to budget reprogramming authorities (Recs. 46–48). The panel also focused on the constrained time periods of single-year funding, which lead to a variety of perverse incentives at the working level. Applying a single-year annual carryover authority to a small percentage (5 percent) of single-year acquisition funding for specific purposes would mitigate these incentives (Rec. 49). The Section 809 Panel offers a series of recommendations that would provide DoD enough flexibility to more effectively fund its identified, high-priority missions when operating under continuing resolutions (Recs. 50–54). The panel also recommends updating the interest rate threshold for the Prompt Payment Act (Rec. 55) and that DoD use the authority already granted to it by Congress to establish a pilot program for an equipment recapitalization revolving fund (Rec. 56).

Other recommendations extend the cancellation of funding timeline by extending the expiration period to close out contracts (Recs. 57 and 58). This change will help alleviate the backlog of contracts for which funds are at risk of expiring. Not only will this approach improve administrative operations for both DoD and its contractors, it will also reduce the need to use current year funding for purposes other than those for which Congress appropriated it.

- **Rec. 46** (*Volume 3, Section 4, p. 177*): Empower the acquisition community by delegating below threshold reprogramming decision authority to portfolio acquisition executives.
  - This change would facilitate the broader transition to a portfolio-based model for defense acquisition programs laid out in Recs. 36–39.
- **Rec. 47** (*Volume 3, Section 4, p. 186*): Restore reprogramming dollar thresholds to match their previous levels relative to inflation and the DoD budget.
- **Rec. 48** (*Volume 3, Section 4, p. 192*): Increase to 50 percent the *lesser of 20 percent* restriction that creates artificially low reprogramming thresholds for smaller programs.
- **Rec. 49** (*Volume 3, Section 4, p. 195*): Provide increased flexibility to the time periods within which a small percentage of single-year contract obligations are permitted to occur.

Recs. 50 through 54 address the practice of funding the defense acquisition system through short-term continuing resolutions (CRs). It is not the Section 809 Panel's intent to tell Congress or the appropriations committees how to operate. During DoD stakeholder interviews, however, CRs were repeatedly raised as one of the major problems facing the acquisition community. Several case studies included in the *Volume 3 Report* serve to illustrate these problems. The core suggestion is to simply enact appropriations on time. If this is unrealistic, other recommendations (Recs. 51–54) offer possible ways to mitigate the harmful effects of CRs on the acquisition system.

- **Rec. 50** (*Volume 3*, Section 4, p. 221): Enact regular appropriations bills on time
- **Rec. 51** (*Volume 3*, section 4, p. 232): Mitigate the negative effect of continuing resolutions by allowing congressional regular appropriations to remain available for a standardized duration from date of enactment.
- **Rec. 52** (*Volume 3*, section 4, p. 236): Permit the initiation of all new starts, provided Congress has appropriated sufficient funding.
- **Rec. 53** (*Volume 3*, section 4, p. 239): Permit the initiation of all production rate increases, provided Congress has appropriated sufficient funding.
- **Rec. 54** (*Volume 3*, section 4, p. 241): Permit the initiation of multiyear procurements under a CR.
- **Rec. 55** (*Volume 3*, Section 4, p. 242): Raise the Prompt Payment Act interest rate payment threshold from \$1 to \$15.
  - This change will reduce administrative burdens for both DoD and its contractors and avoid situations in which DoD effectively pays dollars to save pennies.
- **Rec. 56** (*Volume 3*, Section 4, p. 250): Use the authority in Section 1077 of the FY 2018 NDAA to establish a revolving fund for information technology modernization projects and explore the feasibility of using revolving funds for other money-saving investments.
- **Rec. 57** (*Volume 3*, Section 4, p. 256): Modify fiscal law to extend the duration of when funds cancel from 5 years to 8 years.
  - This recommendation would align program acquisitions with funding periods, prevent putting current funds at risk, and support the original congressional intent of the appropriations.
- **Rec. 58** (*Volume 3*, Section, p. 263): Address the issue of over-age contracts by (a) establishing an end-to-end, integrated, streamlined process, (b) codifying DCMA's Quick Close Out class deviation in the DFARS, and (c) extending DCMA's Low Risk Quick Close Out initiative by 2 years.



## ENABLE THE WORKFORCE

### Reform Workforce Development

- Recommendations 25, 26, 27, 59, 60, 61

### Improve Use of Data for Decision Making

- Recommendations 88, 89

### Support Research & Reform

- Recommendations 91, 93



## ENABLE THE WORKFORCE

The DoD acquisition workforce is the lynchpin to achieving successful acquisition reform. A number of the Section 809 Panel's recommendations address hiring, training, development, and retention of the acquisition workforce (AWF). Other recommendations improve the quality of resources available to the workforce by revising how data are organized and used in DoD's information systems. A final set of recommendations supports acquisition research and reform, creating a research-ready FAR and DFARS and standing up a Center for Acquisition Innovation to house the panel's records and continue the reform mission.

### Reform Workforce Development

DoD needs a highly educated, experienced, capable, and empowered workforce. Ensuring DoD hires and retains a high caliber workforce requires better policy and regular scrutiny. As a first step, the panel recommends a series of actions to streamline and update current hiring authorities, make the Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo) permanent, and improve how the Defense Acquisition Workforce Development Fund (DAWDF) is managed.

The panel also sought to reform how DoD develops a highly qualified professional acquisition workforce. Such change requires a career development model that continuously deepens and broadens acquisition professionals' experience throughout their entire career. The panel recommends overhauling DoD's implementation of DAWIA to introduce professional qualifications in addition to certifications. DoD should also implement career paths with a competency model to cultivate and develop multidiscipline training and experience to ensure that acquisition teams train and work together throughout members' careers. As a means of improving career path development, the panel also recommends establishing a comprehensive, two-way, private–public exchange program (PPEP).

- ➔ **Rec. 25** (*Volume 2*, Section 2, p. 64): Streamline and adapt hiring authorities to support the acquisition workforce.
  - The existing framework of hiring authorities for the AWF fails to support DoD's efforts to address critical skill gaps through the hiring process. This recommendation consolidates authorities around a core set of primary hiring authorities and broadens the application of direct and expedited hiring authorities.

- **Rec. 26** (*Volume 2*, Section 2, p. 78): Convert the Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo) from an indefinite demonstration project to a permanent personnel system.
  - To date, DoD has administered AcqDemo under a temporary authority. The program has been successful for DoD AWF members covered by the authority. AcqDemo should be made permanent and applied to the entire DoD AWF.
- **Rec. 27** (*Volume 2*, Section 2, p. 87): Improve resourcing, allocation, and management of the Defense Acquisition Workforce Development Fund (DAWDF).
  - DAWDF has supported DoD's ability to recruit and retain qualified acquisition personnel, yet faces three key challenges: (a) determining the most efficient approach to operational funding; (b) determining the proper allocation method; and (c) addressing management of the fund. DAWDF should be resourced and managed as a multiyear fund from expiring-year, unobligated dollars at no less than \$450 million annually.
- **Rec. 59** (*Volume 3*, Section 5, p. 273): Revise the Defense Acquisition Workforce Improvement Act (DAWIA) to focus more on building professional qualifications.
  - DoD's implementation of DAWIA needs to be overhauled to introduce professional qualifications (demonstrated occupational competencies and proficiencies) in addition to certifications (an AWF member's education, training and experiences). Developing a highly qualified AWF requires a career development model that continuously deepens and broadens DoD AWF members' experience throughout their careers.
- **Rec. 60** (*Volume 3*, Section 5, p. 285): Implement acquisition career paths that are integrated with an institutionalized competency model tailored to mission needs.
  - DoD should implement career paths that cultivate and develop key work experience. These paths should be integrated with a competency model that features technical and nontechnical skills along with associated proficiency standards for every acquisition career field. A robust and dynamic career development model would provide clarity on the competencies and qualifications AWF members require to reach their full potential and contribute to optimal mission outcomes.
- **Rec. 61** (*Volume 3*, Section 5, p. 305): Create a comprehensive public-private exchange program (PPEP) for DoD's acquisition workforce.
  - PPEPs enjoy widespread support by DoD and Congress. Efforts to implement a comprehensive, two-way exchange program have failed due to structural and cultural factors that have created disincentives for DoD employing offices, DoD employees, and private-sector companies. Eliminating these disincentives would provide a foundation for a comprehensive exchange program.

## Improve Use of Data for Decision Making

The Section 809 Panel recommends several systemic changes to the way DoD supports and enables workforce decision making by better accessing and organizing data in existing information systems. Open access to data systems would provide deeper insight into individual transactions and lead to increased collaboration among workforce members in different functional areas.

- **Rec. 88** (*Volume 3*, Section 9, p. 477): Use existing defense business system open-data requirements to improve strategic decision making on acquisition and workforce issues.
  - DoD has spent billions of dollars building the necessary software and institutional infrastructure to collect enterprisewide acquisition and financial data. In many cases, however, DoD lacks the expertise to effectively use that data for strategic planning and to improve decision making. Recommendation 88 would mitigate this problem by implementing congressional open-data mandates and using existing hiring authorities to bolster DoD's pool of data science professionals.
- **Rec. 89** (*Volume 3*, Section 9, p. 483): Direct DoD to consolidate or eliminate competing data architectures within the defense acquisition and financial system.
  - Due to a lack of standardization, DoD spends more time and money than it should on data collection and analysis. Recommendation 89 would address this problem by identifying redundant or outdated business data architectures to be eliminated or consolidated to improve transparency and decision making.

### Support Research and Reform

Two recommendations create resources for research into and understanding of defense acquisition laws, regulations, and policy. These recommendations fulfill the statutory mandates to review acquisition regulations and statutes and continue the mission of acquisition reform after the panel's conclusion. These changes will help government and industry acquisition team members to better understand the acquisition system.

- **Rec. 91** (*Volume 3*, Section 11, p. 505): Require the Administrator of General Services and the Secretary of Defense to maintain the FAR and DFARS respectively, as electronic documents with references to the related statutes, Executive Orders, regulations, and policies, and with hyperlinks to Federal Register Notices.
  - The complexity of the federal acquisition process has resulted in regulations that are challenging to navigate and understand for most government and industry acquisition team members. The current FAR and DFARS do not include detailed information on the origins of the requirements and language in the documents. The Section 809 Panel's recommended changes will enhance knowledge and capability within the AWF and improve functioning of the FAR system and federal acquisition processes.
- **Rec. 93** (*Volume 3*, Section 13, p. 515): Create a Center for Acquisition Innovation located at the National Defense University, Eisenhower School.
  - The report language accompanying the House version of the FY 2019 NDAA provided that both the panel's records and its mission should be transferred to National Defense University. This recommendation identifies the legislative requirements to implement the report language and how the mission of the panel may be translated into continuous acquisition reform.



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## SIMPLIFY ACQUISITION

### Revise Processes to Value Time & Put Mission First

- Recommendations IR-1, IR-4, IR-5, 70, 74, 75, 22, 23, 24

### Update Adjudicative Processes

- Recommendations 33, 66, 67, 68, 69, 82, 83

### Simplify Contracting

- Recommendations 76, 77, IR-2, IR-3, 32, 78

### Simplify Acquisition of Information Technology

- Recommendations 43, 44, 45, 16, 17, 18, 19

### Clarify Services Policies

- Recommendations 20, 31

### Improve and Focus Oversight

- Recommendations 5-15, 29, 30, 71, 72, 73

### Simplify Title 10

- Recommendations 34, 90



## SIMPLIFY ACQUISITION

One of the Section 809 Panel's most extensive and impactful objective was to get rid of outdated, redundant or counterproductive acquisition legislation, regulations, policy, and practices. Some of these regulations and statutes are outdated or no longer applicable. Other rules and regulations have been added over the years out of good intentions to reform the acquisition system. The end result is an intimidatingly complex system that wastes time, frustrates users, and potentially creates a barrier to entry for firms seeking to do business with DoD.

The Section 809 Panel offers 49 recommendations for simplifying acquisition by streamlining and modernizing acquisition practices. Many of these recommendations seek to reduce excessive or redundant documentation, reporting requirements, or processes that take too long and offer too little value to Congress and DoD. Another suite of recommendations simplifies acquisition of information technology (IT), which has become overly complicated and out of synch with private-sector practices. Three recommendations focus on services contracting, which has been increasingly burdened with compliance and data reporting requirements that impede timely acquisition of needed services while generating minimal useful data or meaningful oversight. Other recommendations seek to streamline processes or procedures that have grown financially or administratively burdensome, in many instances due to overzealous interpretation. The final two recommendations in this section radically restructure and simplify the sections of Title 10 in U.S. Code that govern defense acquisition.

### Revise Processes to Value Time and Put Mission First

A number of the Section 809 Panel's recommendations streamline processes that have grown unnecessarily complicated. Two recommendations eliminate or revise 13 duplicative or non-value-added documentation packages required for a contract file. The panel also recommends replacing the Inventory of Contracted Services (ICS) to eliminate the current complicated, customized information management systems and provide a more useful tool for oversight information.

Additional recommendations eliminate, repeal, or sunset statutory offices and Secretary of Defense-designated officials when practical to increase flexibility and reduce redundancy. The panel recommends establishing a permanent, automatic 5-year sunset provision for DoD congressional reporting requirements. For those reporting requirements currently in place, the panel

recommends repealing, preserving, or maintaining various DoD congressional reporting requirements. These recommendations are intended to increase the Secretary of Defense's ability to adapt the DoD organizational structure to improve efficiency and effectiveness.

- **Rec. IR-1** (*Supplement to the Interim Report*, p. 2): Affirm agency mission as the primary goal of DoD acquisition.
  - Enacted in Section 801 of the FY 2018 NDAA.
- **Rec. IR-4** (*Supplement to the Interim Report*, p. 17): Eliminate FAR section on texting while driving. (FAR Clause 52.223-18)
- **Rec. IR-5** (*Supplement to the Interim Report*, p. 25): Eliminate the requirement to accept and dispense dollar coins at government business operations.
  - Enacted in Section 885 of the FY 2018 NDAA.
- **Rec. 70** (*Volume 3*, Section 7, p. 360): Authorize DoD to develop a replacement approach to the inventory of contracted services (ICS) requirement under 10 U.S.C. § 2330a.
  - The current data collection process for ICS adds cost but little or no value to DoD's strategic decision-making processes. The panel recommends DoD develop a services contracting reporting and analysis system as a replacement for the existing ICS requirements. This system should be accompanied by a proposal that includes suggested statutory authorization language, a funding requirements estimate, and policy implementation language that addresses contractor reporting requirements.
- **Rec. 74** (*Volume 3*, Section 7, p. 395): Eliminate redundant documentation requirements or superfluous approvals when appropriate consideration is given and documented as part of acquisition planning.
  - Acquisition teams are required to produce numerous separate documents that are redundant with the acquisition plan or other required documents for the contract file. These documents are subject to separate review and approval processes, create unnecessary work, and add little value to the end product or service. This recommendation identifies nine specific inefficient requirements and proposes simplifications to statute, FAR, and DFARS.
- **Rec. 75** (*Volume 3*, Section 7, p. 408): Revise regulations, instructions, or directives to eliminate non-value-added documentation or approvals.
  - Acquisition policies and regulations are burdened by solicitation and precontract award processes that result in substantial acquisition delays. Some processes conflict with established federal policy, such as the DoD requirement to seek approval prior to using preferred governmentwide contract vehicles. This recommendation identifies four specific non-value-added requirements, along with recommended simplifications to statute, FAR, and DFARS.
- **Rec. 22** (*Volume 1*, Section 7, p. 199): Eliminate, or sunset within 5 years, the statutory requirement for certain acquisition-related offices and Secretary of Defense designated officials to increase flexibility and/or reduce redundancy.
  - Enacted in part in Section 811 of the FY 2019 NDAA.

- **Rec. 23a-n** (*Volume 1*, Section 8, p. 227): Establish a permanent, automatic 5-year sunset provision for DoD congressional reporting requirements.
- **Rec. 24a-ab** (*Volume 1*, Section 8, p. 229): Repeal, preserve, or maintain various DoD congressional reporting requirements.
  - Enacted in part in Section 813 of the FY 2019 NDAA.

## Update Adjudicative Processes

The adjudicative bodies that process and hear defense acquisition-related bid protests, claims, and other appeals require streamlining and updating to focus on mission first and provide the speed needed to get inside the turn of near-peer competitors and nonstate actors. Implementing each of the recommendations listed below would allow DoD to process, hear, and resolve more cases with less administrative burden while maintaining transparency and fairness.

- **Rec. 33** (*Volume 2*, Section 6, p.168): Update the Assignment of Claims processes under FAR Part 32.805.
  - This recommendation eliminates the current requirement for an impressed corporate seal on claims submitted to the government by contractors, an outdated practice that is inconsistent with information-age practices.
- **Rec. 66** (*Volume 3*, Section 6, p. 341): Establish a purpose statement for bid protests in the procurement system to help guide adjudicative bodies in resolving protests consistent with said purpose and establish a standard by which the effectiveness of protests may be measured.
  - Currently, no purpose statement exists for bid protests. The panel recommends adopting a statement that indicates the purpose of bid protests is to enhance confidence in DoD's contracting process. This statement would create a baseline against which to measure protest program performance within DoD's acquisition system.
- **Rec. 67** (*Volume 3*, Section 6, p. 345): Reduce potential bid protest processing time by eliminating the opportunity to file a protest with the COFC after filing at the Government Accountability Office (GAO) and require the COFC (Court of Federal Claims) to issue a decision within 100 days of ordering a procurement be delayed.
- **Rec. 68** (*Volume 3*, Section 6, p. 355): Limit the jurisdiction of GAO and COFC to only those protests of procurements with a value that exceeds, or is expected to exceed, \$75,000.
- **Rec. 69** (*Volume 3*, Section 6, p. 358): Provide as part of a debriefing, in all procurements where a debriefing is required, a redacted source selection decision document and the technical evaluation of the vendor receiving the debriefing.
- **Rec. 82** (*Volume 3*, Section 7, p. 448): Provide Armed Services Board of Contract Appeals authority to require filing of contract appeals through an electronic case management system.
- **Rec. 83** (*Volume 3*, Section 7, p. 450): Raise the monetary threshold to provide agency boards of contract appeals accelerated, small business, and small claims (expedited) procedures to \$250,000 and \$150,000 respectively.

## Simplify Contracting

In some cases, DoD must reform existing authorities and processes to restore efficiencies to the contracting process and reduce burden in the field.

- **Rec. 76** (*Volume 3*, Section 7, p. 416): Revise the fair opportunity procedures and require their use in task and delivery order competitions.
  - Contracting officers often default to using FAR 15 source selection procedures when competing orders under multiple award indefinite delivery/indefinite quantity contracts, adding unnecessary time and complexity to the process. The panel recommends requiring use of existing streamlined FAR 16.5 fair opportunity procedures.
- **Rec. 77** (*Volume 3*, Section 7, p. 422): Require role-based planning to prevent unnecessary application of security clearance and investigation requirements to contracts.
  - This recommendation requires that DoD use existing role-based planning to select which level of clearance is required for contractors, rather than defaulting to blanket secret-level clearances for service contracts. This procedural change, which is consistent with the need-to-know principle of the National Industrial Security Program, would speed the clearance process for new applications and reduce the investigation backlog of nearly 700,000 without adding any new regulations.

Additional streamlining activities that would remove barriers to entry and offer DoD price savings, include the following:

- **Rec. IR-2** (*Supplement to the Interim Report*, p. 20): Increase contract time for fuel storage from 20 years to 30 years.
  - Enacted in Section 881 of the FY 2018 NDAA.
- **Rec. IR-3** (*Supplement to the Interim Report*, p. 10): Eliminate the requirement for contractors to use recycled paper.
- **Rec. 32** (*Volume 2*, Section 6, p. 162): Exempt DoD from paying the Federal Retail Excise Tax.
- **Rec. 78** (*Volume 3*, Section 7, p. 427): Include the supply of basic energy as an exemption under FAR 5.202.
  - DoD's practice for contract award notification is not consistent with private-sector pricing practices. This recommendation conforms DoD's practice with a volatile market, allowing the government to award basic energy contracts almost immediately after receipt of a price offer.

## Simplify the Acquisition of Information Technology

DoD's acquisition of IT systems, software, and services has not kept pace with technology capability or delivery speed in the dynamic marketplace. The constraints on DoD's IT acquisition limit its ability to innovate and maintain a competitive edge over near-peer adversaries and nonstate actors. IT programs in the private sector use modern, agile development methods and deliver solutions that are a combination of products and services. DoD must update its IT procurement methods to incorporate these modern characteristics and fully leverage technology innovation available in the dynamic marketplace.



Although the Section 809 Panel understands the importance of software development in the broader IT landscape, the panel did not address this topic in depth and instead coordinated with the Defense Science Board (DSB) and Defense Innovation Board (DIB) software acquisition study teams, which developed targeted recommendations in this area. The panel's IT recommendations are complementary to the recommendations developed by DSB and DIB.

- **Rec. 43** (*Volume 3*, Section 3, p. 136): Revise acquisition regulations to enable more flexible and effective procurement of consumption-based solutions.
  - DoD's current system forces IT into one of two outdated purchasing categories—supplies or services—while ignoring the fact that IT is increasingly a combination of supplies and services that are sold on a consumption basis. This recommendation addresses the problem of buying today's solutions with yesterday's rules. The recommendation includes exempting purchases of consumption-based solutions from traditional service contracting rules, and creates a new contract type optimized for these types of purchases. This recommendation provides a standardized approach to buying cloud-based, telecommunications-related, and other solutions that tend to be sold via consumption-based models.
- **Rec. 44** (*Volume 3*, Section 3, p. 149): Exempt DoD from Clinger–Cohen Act Provisions in Title 40.
  - The Clinger–Cohen Act of 1996 unnecessarily adds a time-consuming, checklist-oriented compliance process to DoD's already robust resources, requirements, and acquisition system. It was designed primarily for civilian agencies and has become outdated in DoD, which has more effective processes in place that guide strategic planning of IT acquisitions. This recommendation exempts DoD from all compliance activities derived from the Clinger–Cohen Act.
- **Rec. 45** (*Volume 3*, Section 3, p. 162): Create a pilot program for contracting directly with information technology consultants through an online talent marketplace.
  - Program managers often need short-term support from IT experts with unique skill sets to devise solutions for complex challenges. Current contracting practices take too long and add administrative costs, often preventing DoD from quickly accessing expertise in the private sector. This recommendation pilots a new authority to contract with individual subject matter experts in days or weeks instead of months, fulfilling competition requirements through the use of an online talent marketplace.

A specific area of IT focus was the roughly 2,100 Defense Business Systems (DBSs) supporting business processes across DoD. Complicated and piecemeal acquisition policies have hampered acquisition and upgrades of DBSs. The panel recommends a thorough streamlining effort to consolidate authorities under DBS portfolios and to fund and manage these portfolios in a way that enables the desired agile development approaches.

- **Rec. 16** (*Volume 1*, Section 3, p. 111): Combine authority for requirements, resources, and acquisition in a single, empowered entity to govern DBS portfolios separate from the existing acquisition chain of command.
  - Responsibility for acquisition of DBSs is diffused across DoD, with no single entity accountable for results. Consequently, DBS programs take too long and cost too much to implement. Fragmented and overlapping oversight processes create a burdensome parallel acquisition system that hinders

flexibility and inhibits use of modern commercial IT acquisition and implementation practices. This recommendation combines authority for requirements, resources, and acquisition in a single entity fully empowered to manage DBS portfolios.

- **Rec. 17** (*Volume 1*, Section 3, p. 130): Eliminate the separate requirement for annual IRB certification of DBS investments.
  - The Investment Review Board (IRB) annual certification requirement for DBS investments leads to unnecessary delays and is duplicative of the program objective memorandum in the PPBE process. Eliminating the separate requirement for annual IRB certification would facilitate more timely development and deployment of DBSs.
- **Rec. 18** (*Volume 1*, Section 3, p. 137): Fund DBSs in a way that allows for commonly accepted software development approaches.
  - The current statutory and policy regime does not enable the speed DoD needs to effectively acquire DBSs. Funding constraints, in various forms, are key contributors to this problem. The traditional appropriations model provides a helpful framework when developing complex weapons systems; however, it is fundamentally incompatible with business software programs intended to deliver new capabilities multiple times per year. This recommendation would allow DoD to manage DBS funding through internal reprogramming guidelines for reclassifying funds and movement of DBS funding across O&M accounts, RDT&E accounts, and Procurement accounts.
- **Rec. 19** (*Volume 1*, Section 4, p. 151): Eliminate the Earned Value Management (EVM) mandate for software programs using Agile methods.
  - This recommendation was made in the context of the panel’s review of DoD business systems. DoD established use of EVM as a requirement for periodically measuring linear programs with firm baselines established prior to starting development. EVM is not well suited as a measurement tool in an Agile environment, which is dynamic by design. By its nature, Agile provides dynamic and ongoing feedback to stakeholders participating on development teams. This recommendation gives project managers, in the context of DoD’s business systems, the option to choose the project monitoring and control methods best suited for their acquisition programs.

## Clarify and Simplify Services Policies

Federal acquisition policies and regulations are unnecessarily vague regarding supervisory responsibilities of contractors providing contracted services support and the appropriate direction that government employees can provide contractor employees. This problem has led to confusion in the performance and management of non-personal services contracts. This vagueness has also unnecessarily complicated and lengthened the time needed for the development of requirements for knowledge-based services contracts.

- **Rec. 20** (*Volume 1*, Section 5, p. 159): Clarify the definitions of personal and nonpersonal services and incorporate in the DFARS a description of supervisory responsibilities for service contracts.
  - The panel recommends clarifying policies for implementation in the DFARS on the management of nonpersonal services (NPS) contracts relative to contractor supervisory responsibilities. This guidance will improve the acquisition and management of services contracts by providing clarity concerning the roles and responsibilities of both contractor and government employees.
  - Enacted in part in Section 820 of the FY 2019 NDAA.

- **Rec. 31** (*Volume 2*, Section 5, p. 148): Eliminate the statutory and regulatory distinction between personal services contracts (PSC) and nonpersonal services (NPS) contracts.
  - Implementing this recommendation will recognize the realities of the multisector workforce used throughout the federal government and enable adoption of private-sector approaches to the use of services. It also reflects the evolving nature of DoD requirements in services contracts designed to access technology and innovation, while streamlining the requirements definition process for knowledge-based services contracts.

## Improve and Focus Oversight

The DoD contract compliance oversight process is a barrier to entry into the DoD marketplace because it is not always timely, efficient, or effective. Contracting officers employ the Defense Contract Audit Agency (DCAA) and the Defense Contract Management Agency (DCMA) for audit, advisory, and contract management services. The Section 809 Panel recommends a comprehensive series of actions to re-align DCAA's focus to supporting the contracting officer and acquisition team as well as provide DoD with the flexibility to use independent professional auditors (IPAs) or advisory services when appropriate. The panel also recommends reviving an independent Cost Accounting Standards Board to oversee new and updated cost accounting standards (CAS) program requirements. Finally, the panel developed an Audit Professional Practice Guide to work as a supplement to existing guidance for professionals, both government and IPAs, involved in the business of defense procurement contract auditing.

- **Rec. 5** (*Volume 1*, Section 2, p. 64): Align DCAA's mission statement to focus on its primary customer, the contracting officer.
- **Rec. 6** (*Volume 1*, Section 2, p. 67): Revise the elements of DCAA's annual report to Congress to incorporate multiple key metrics.
- **Rec. 7** (*Volume 1*, Section 2, p. 70): Provide flexibility to contracting officers and auditors to use audit and advisory services when appropriate.
  - 7a (*Volume 1*, Section 2, p. 71): Prior to requesting field pricing/audit assistance, contracting officers should consider other available internal resources and tailor their request for assistance to the maximum extent possible.
  - 7b (*Volume 1*, Section 2, p. 72): Define the term *audit*.
  - 7c (*Volume 1*, Section 2, p. 72): DCAA should use the full range of audit and nonaudit services available.
  - 7d (*Volume 1*, Section 2, p. 74): Direct a review of the roles of DCAA and DCMA to ensure appropriate alignment and eliminate redundancies.
    - Enacted in Section 925 of the FY 2019 NDAA.
- **Rec. 8** (*Volume 1*, Section 2, p. 76): Establish statutory time limits for defense oversight activities.
- **Rec. 9** (*Volume 1*, Section 2, p. 80): Permit DCAA to use IPAs to manage resources to meet time limits.



- **Rec. 10** (*Volume 1*, Section 2, p. 82): Replace system criteria from DFARS 252.242-7006, Accounting System Administration, with an internal control audit to assess the adequacy of contractors' accounting systems.
- **Rec. 11** (*Volume 1*, Section 2, p. 87): Develop a Professional Practice Guide for DoD's oversight of contractor costs and business systems.
- **Rec. 12** (*Volume 1*, Section 2, p. 91): Require DCAA to obtain peer review from a qualified external organization.
- **Rec. 13** (*Volume 1*, Section 2, p. 93): Increase coverage of the effectiveness of contractor internal control audits by leveraging IPAs.
- **Rec. 14** (*Volume 1*, Section 2, p. 95): Incentivize contractor compliance and manage risk efficiently through robust risk assessment.
- **Rec. 15** (*Volume 1*, Section 2, p. 100): Clarify and streamline the definition of and requirements for an adequate incurred cost proposal to refocus the purpose of DoD's oversight.
- **Rec. 29** (*Volume 2*, Section 4, p. 114): Revise 41 U.S.C. §§ 1501-1506 to designate the Cost Accounting Standards Board as an independent federal organization within the executive branch.
- **Rec. 30** (*Volume 2*, Section 4, p. 122): Reshape CAS program requirements to function better in a changed acquisition environment.
- **Rec. 71** (*Volume 3*, Section 6, p. 375): Adopt the professional practice guide to support the contract audit practice of DoD and the independent public accountants DoD may use to meet its contract audit needs, and direct DoD to establish a working group to maintain and update the guide.
- **Rec. 72** (*Volume 3*, Section 6, p. 379): Replace 18 system criteria from DFARS 252.242-7006, Accounting System Administration, with an internal control audit to assess the adequacy of contractors' accounting systems based on seven system criteria.
- **Rec. 73** (*Volume 3*, Section 6, p. 381): Revise the definition of business system deficiencies to more closely align with generally accepted auditing standards.

## Simplify Title 10

Two additional recommendations are intended to achieve a comprehensive reorganization and optimization of acquisition-related statutes in Title 10 of the U.S. Code. Those statutes have become increasingly disorganized due to the proliferation of NDAA legislative *note sections* applicable to defense acquisition, creating a substantial impediment to transparency and clarity. The Section 809 Panel proposes that nearly 100 of these outdated and obsolete Title 10 provisions and note sections be deleted. Separate from this decluttering activity, the panel makes a sweeping recommendation to reorganize all of the defense acquisition-related statutes in Title 10 and codify many of the remaining note sections. This effort dramatically simplifies and updates the Code, making key laws about defense acquisition more accessible and understandable.



- **Rec. 34** (*Volume 2*, Section 7, p. 171): Repeal certain Title 10 sections and note sections, create a new Part V under Subtitle A of Title 10, and redesignate sections in Subtitles B–D to make room for Part V to support a more logical organization and greater ease of use.
  - Enacted in Sections 801, 806, 807, 808, 809, and 812 of the FY 2019 NDAA.
  
- **Rec. 90** (*Volume 3*, Section 10, p. 499): Reorganize Title 10 of the U.S. Code to place all of the acquisition provisions in a single part, and update and move acquisition-related note sections into the reorganized acquisition part of Title 10.

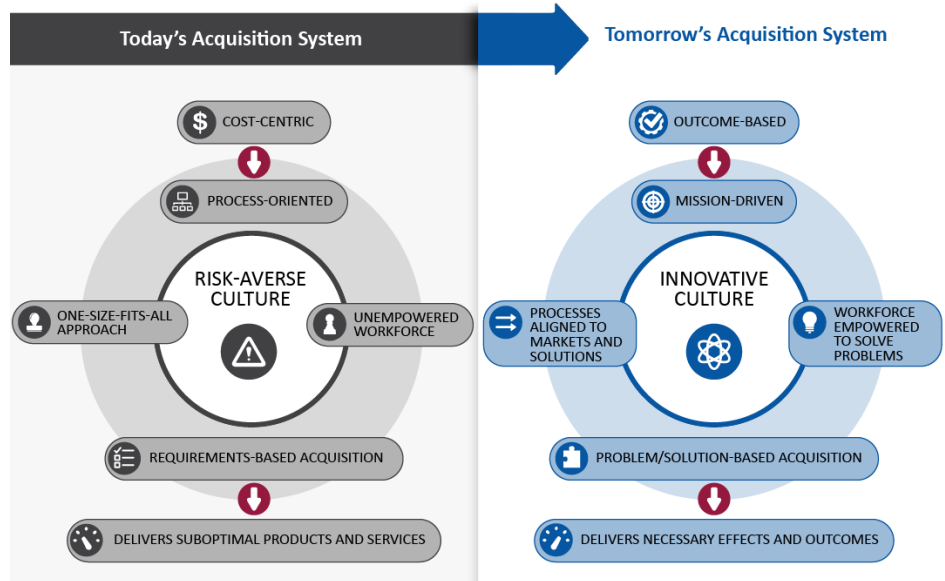


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## CONCLUSION

### The Section 809 Panel's Vision for Transforming Defense Acquisition



The Section 809 Panel's 98 recommendations create a clear vision for transforming the DoD acquisition system. The panel has proposed changes that can make the acquisition system more responsive, innovative, and cost effective. These changes will enable the acquisition system to value time and prioritize outcomes over process. Together, the recommendations work to balance the need for oversight with the need to trust the people making decisions and to eliminate the risk-averse culture that impedes the acquisition process. Ultimately, implementing the panel's recommendations will enable the acquisition system to deliver capability to warfighters inside the turn of the nation's near-peer competitors and nonstate actors.

These recommendations must be reinforced by a corresponding transformation of defense acquisition culture that mirrors the five concepts first identified in the *Interim Report* and subsequently used to structure this roadmap. Before any new policy, law, or practice is created or eliminated, the following five questions must be answered:

- Does it create a defense acquisition system that is agile enough to adapt at the speed of a changing world?
- Does it position DoD to leverage the dynamic marketplace?



- Does it ensure the effective allocation of resources?
- Does it enable the workforce?
- Does it simplify acquisition?

As the recommendations of the Section 809 Panel are implemented, it is imperative that they be accompanied by a behavioral shift that puts mission first and incentivizes innovation throughout the defense acquisition system, from warfighters and acquisition professionals to traditional defense contractors and private-sector entrepreneurs.



## ACRONYMS

AcqDemo	Civilian Acquisition Workforce Personnel Demonstration Project
AWF	Acquisition Workforce
COFC	U.S. Court of Federal Claims
CR	Continuing Resolution
DAWDF	Defense Acquisition Workforce Development Fund
DBS	Defense Business System
DCAA	Defense Contract Audit Agency
DCMA	Defense Contract Management Agency
DIB	Defense Innovation Board
DSB	Defense Science Board
EVM	Earned Value Management
GAO	Government Accountability Office
ICS	Inventory of Contracted Services
IPA	Independent Professional Auditor
IRB	Investment Review Board
IT	Information Technology
NPS	Nonpersonal Services
OT	Other Transaction
PAE	Portfolio Acquisition Executive
PPEP	Private-Public Exchange Program
PSC	Personal Services Contract
RIF	Rapid Innovation Fund
RM	Requirements Management
SBIR	Small Business Innovation Research
SPB	Sustainment Program Baseline
STTR	Small Business Technology Transfer

