

Recommendation 93: Create a Center for Acquisition Innovation located at the National Defense University, Eisenhower School.

Problem

The Section 809 Panel will complete its work and cease to exist pursuant to its Congressional authorization on July 15, 2019. The need to identify challenges associated with the DoD acquisition system will continue to exist, as will the need to propose policy alternatives for addressing those challenges. To facilitate future efforts to address challenges associated with defense acquisition, the Section 809 Panel's records must be maintained and a center for policy research established.

Background

The House Armed Services Committee provided guidance in the report accompanying HR 5155, the FY 2019 NDAA, which indicated that the records of the panel should be moved to the Eisenhower School (ES) of the National Defense University (NDU) and that DoD should continue to do research and make policy proposals to Congress on improving DoD's acquisition system. Specifically the language in the report directs DoD that "research and analysis" shall continue, and the "panel's records shall be maintained by the Eisenhower School at the National Defense University."¹

Discussion

Congress's intent to avoid the need to commission an acquisition reform panel each decade is clear. To establish a driving force for continuous improvement within DoD, the function should be situated in an educational environment where operational, acquisition, and industry personnel, as well as faculty with diverse backgrounds, have sufficient time to research issues, and discuss those issues candidly and without attribution. This academic approach should be conducted with a view to proposing peer reviewed solutions for consideration by both the Secretary of Defense and Congress for potential action.

The following elements are important to accomplishing Congress's intent:

- Act as an academic entity, specializing in strategic acquisition initiatives and innovative processes pursuant to the duties outlined in Table 13-1, *Duties of the Panel and Future Center*.
- Report on and analyze advanced acquisition strategies to continually refine operational support in DoD.
- Prioritize continuous improvement by promoting high standards and sound judgement in the proposal of acquisition policy alternatives, with a specific focus on streamlining acquisition statutes, regulations, policies, and procedures.

The Section 809 Panel discussed alternative strategies to accomplish the congressional intent with both NDU and Defense Acquisition University (DAU), the two DoD facilities potentially capable of fulfilling such a mission. After deliberation, the panel determined that Congress should establish an academically independent center designated as The Center for Acquisition Innovation (CAI) within the

¹ House Report 115-676, Report of the Committee on Armed Services to Accompany H.R. 5515 of the 115th Congress, May 15, 2018, 145.

NDU ES facility to meet the acquisition policy innovation mission articulated in this section. The ES students and faculty are in a unique position, colocated in DoD’s only joint professional military education (JPME) phase II senior-level college with a concentrated curriculum for senior acquisition professionals. The ES “prepares military officers and civilians for senior leadership and staff positions throughout the acquisition community.”² Additionally, the existing curriculum at ES could be leveraged to provide an opportunity for its students and faculty to participate in the center’s mission, and subsequent annual deliverable.

A distinctive complement exists between the mission of the ES and the statutory charter of the Section 809 Panel as it is today (see Table 13-1). “The panel is charged with making recommendations that will shape DoD’s acquisition system into one that is bold, simple, and effective.”³ The ES mission has a similar future oriented vision, where it integrates academic research and forward-thinking deliverables to meet 21st century demands with a continued practice in commercial sector partnership.

Under the guidance of the Chairman, Joint Chiefs of Staff (CJCS), the Eisenhower School Commandant and faculty prepare senior military officers, government civilians, and selected representatives from the private sector and international officers for the national security challenges of the 21st century. The goal is to leverage technological advances, integrate new strategic and operational concepts, identify and adapt to evolving global developments, and channel the vitality and innovation of the Services, the interagency, and allies to achieve a more seamless, coherent effect when confronting new national security challenges and the battlefields of the future.⁴

Table 13-1 elucidates Section 809 Panel duties established in the pertinent NDAA, as well as additional duties that the panel recommends CAI assume:

Table 13-1. Duties of the Panel and Future Center

Origin of Duties	Duties
Section 809, FY 2016 NDAA (Pub. L. No. 114-92), as amended by section 863(d) of FY 2017 NDAA (Pub. L. No. 114-328) and sections 803(c) and 883 of FY 2018 NDAA (Pub. L. No. 115-91)	Review the acquisition regulations applicable to the DoD with an objective to streamline and improve efficiency and effectiveness of the defense acquisition process and maintain a defense technology advantage.
Section 809, FY 2016 NDAA (Pub. L. No. 114-92), as amended by section 863(d) of FY 2017 NDAA (Pub. L. No. 114-328) and sections 803(c) and 883 of FY 2018 NDAA (Pub. L. No. 115-91)	Make any recommendations for the amendment or repeal of such regulations that the center considers necessary, as a result of such review, to— <ol style="list-style-type: none"> 1) establish and administer appropriate buyer seller relationships in the procurement system improve the functioning of the acquisition system; 2) ensure the continuing financial and ethical integrity of defense procurement programs;

² “The Eisenhower School for National Security and Resource Strategy,” National Defense University, accessed November 14, 2018, <https://es.ndu.edu/Programs/Senior-Acquisition/>.

³ “About Us,” Section 809 Panel, accessed November 14, 2018, <https://section809panel.org/about/>.

⁴ “About The Eisenhower School for National Security and Resource Strategy,” National Defense University, accessed November 14, 2018, <https://es.ndu.edu/About/Mission/>.

Origin of Duties	Duties
	3) protect the best interests of the Department of Defense; 4) improve the efficiency of the contract auditing process, including through the development of risk-based materiality standards; and 5) eliminate any regulations that are unnecessary.
Report of the Committee on Armed Services, House of Representatives for FY19, in House Report 5515	DoD’s acquisition reform efforts will not cease upon the termination of the Advisory Panel on Streamlining and Codifying Acquisition Regulations.
Report of the Committee on Armed Services, House of Representatives for FY19, in House Report 5515	DoD’s implementation of recent legislative reforms as well as the Advisory Panel’s recommendations on regulations will require continued research and analysis.
Report of the Committee on Armed Services, House of Representatives for FY19, in House Report 5515	Upon termination of the Advisory Panel, the Advisory Panel’s records shall be maintained by the Eisenhower School at the National Defense University by no later than August 1, 2019.
Section 809 Panel, Volume 3, Section 13 Recommendation 93	Produce an annual report, in July, using similar methodologies of the current panel’s <i>Volume 3</i> (i.e., substantiated research and analysis, conclusion, legislative and executive branch recommendations where appropriate, and specific implementation language for statutory changes) delivered to the Secretary of Defense, House Armed Services Committee (HASC), and Senate Armed Service Committee (SASC).
Section 809 Panel, Volume 3, Section 13 Recommendation 93	Act as an academic entity, specializing in strategic acquisition initiatives and innovative processes.
Section 809 Panel, Volume 3, Section 13 Recommendation 93	Use CAI resources to review and track implementation of past recommendations issued under Section 809 and future Center policy alternatives.

Considerations for Successful Implementation

Impartiality and Funding

It is imperative that CAI be academically independent, while having the ability to leverage the acquisition faculty and students at the ES and also at DAU. To ensure such independence, annual policy alternatives delivered by CAI should not be subject to any DoD review or approval before submission to the Secretary of Defense and the HASC and the SASC. Additionally, each fiscal year Congress should authorize and appropriate at least \$1.5 million, adjusted annually for inflation, specifically for standing up and then operating CAI. CAI should be exempt from any constraints on full-time equivalents (FTEs) for the ES, subject to annual Congressional authorization and appropriation funding limits.

Strategic Partnerships

It is important for the acquisition cadre to have strategic sponsors throughout DoD, specifically with the Under Secretary of Defense (USD) Acquisition and Sustainment, and USD Research and

Engineering. Strategic sponsors are also needed to include the congressional defense committees; DAU; Director, Acquisition Career Manager offices; the Acquisition Functional Communities; service acquisition executives; component acquisition executives; USD(Comptroller); Joint Chiefs of Staff; and industry. The strategic sponsors should nominate topics for research and analysis and provide access and guidance to develop policy alternatives that support CAI's mission.

There is an obvious connection to the existing ES curriculum's research and analysis capabilities and requirements that should be leveraged to promote faculty and student participation. In particular, the students in the Senior Acquisition Course are encouraged to conduct research on CAI-sponsored topics as part of their academic requirements.

CAI should collaborate with sponsors to develop policy alternatives for the annual deliverable to solve current DoD problems and continuously improve statutes, regulations, policies, and procedures. CAI should seek stakeholder engagement (e.g., industry, Military Services, Defense Agencies,) in order to nominate and review the scope of policy alternatives and the implementation of such solutions provided. Partnerships should be sought to leverage rotational assignments for senior acquisition leaders to participate in CAI's annual deliverable.

Messaging and outreach, such as those established during the Section 809 Panels commission (e.g., podcasts, speaking engagements, open public sessions, a website, newsletters) should be used to establish continued engagement and feedback with stakeholders. CAI also provides an opportunity to further increase the existing collaboration between the ES and DAU.

Implementation Review

CAI would have a unique opportunity to leverage the 300-plus students and faculty at ES, and the acquisition community, to track the adoption of the Section 809 Panel recommendations and CAI future policy alternatives. This process would ideally mirror the congressional legislative process, and allow for adjudication of real-time challenges each recommendation or policy alternative faced when submitted to Congress. This recommendation will allow timely public reaction to pressing acquisition issues that cannot be duplicated in a simulated exercise historically delivered in the ES curriculum. Using the resources allocated to CAI, a CAI chair would partner with the ES to accomplish this validation task annually. The volume of recommendations and policy alternatives to track would be managed by the Chair, taking into consideration how to best use the ES students and faculty.

Incentives

CAI would be required to develop incentives to encourage faculty, students, industry partners, and DoD employees outside of NDU to participate in, or collaborate with CAI, in all its efforts to produce the most qualified constituents to analyze, shape, and develop necessary and enduring changes to the acquisition system. This collaboration would not be limited to NDU's preexisting relationships with DoD and commercial publications that feature academic articles. The ES should offer the participants the opportunity to directly engage with DoD senior officials and Congressional staff to develop and implement their proposed policy alternatives. Additionally, the panel recommends CAI use commercial incentives such as cash awards, time off awards, and public recognition, to promote participation with the center for purposes of its annual deliverable.

Records Archiving at the National Defense University Library

The panel's records are entirely digital, maintained on a public website, but the infrastructure and nomenclature may be inconsistent with current information technology standards or other public records requirements. The inconsistencies require resolution as the panel transitions its records management to NDU. The panel's records include the current website, which may either be supported by or transitioned to NDU. NDU needs to determine the scope of this effort and support it out of the annual appropriation for CAI. It is critical the future records owner protect the confidentiality of the digital records for the panel's interviews, as stakeholders agreed to the interviews with an expectation of nonattribution. The four existing panel reports (*Interim*, *Volume 1*, *Volume 2*, and *Volume 3*) would need to be housed on a public website (i.e., not in the .edu domain).

Conclusions

The functions expressed by the House of Representatives in a report accompanying the FY 2019 NDAA (i.e., "continued acquisition research and records maintenance") are best accomplished by creating a new center at NDU for acquisition innovation. CAI's mission would provide an opportunity for student and faculty research to propose policy alternatives to the Secretary of Defense and Congress annually on important issues to continuously improve the defense acquisition system.

Implementation

Legislative Branch

- Establish in the FY 2020 NDAA the Center for Acquisition for Innovation to be located at the National Defense University, Eisenhower School.
 - Leverage the Eisenhower School's student body and faculty where practicable.
 - Authorize and appropriate yearly funds sufficient to operate the center in an amount not less than \$1.5 million adjusted annually for inflation.
 - Include the following among the CAI duties:
 - Operate as an academic entity specializing in acquisition research.
 - Produce an annual report in July that contains, at a minimum: (a) substantiated research and analysis, (b) a conclusion summarizing the research, (c) legislative and executive branch policy alternatives as appropriate, and (d) specific implementation language for statutory changes delivered to the Secretary of Defense, HASC, and SASC.
 - Track implementation of recommendations issued by the Section 809 Panel and policy alternatives proposed in the future CAI's work.
 - Review the acquisition statutes and regulations applicable to DoD with the objectives of streamlining and improving efficiency and effectiveness of the defense acquisition process and maintaining a defense technology advantage.

- Prioritize research and analysis with the objective of amending or repealing such statutes or regulations that the center considers necessary to fulfill its mission.
- Require the ES at NDU to maintain the Section 809 Panel's records and reports at the time of the panel's termination.

Executive Branch

- Identify and assign CAI sponsors to support the mission in statute.

Implications for Other Agencies

- There are no cross-agency implications for this recommendation.

RECOMMENDED REPORT LANGUAGE

SEC. ____. ESTABLISHMENT OF CENTER FOR ACQUISITION INNOVATION AT THE EISENHOWER SCHOOL OF THE NATIONAL DEFENSE UNIVERSITY.

This section would amend chapter 108, title 10, United States Code, by inserting a new section 2165 that establishes a Center for Acquisition Innovation at the National Defense University, Dwight D. Eisenhower School for National Security and Resource Strategy, Washington D.C., to continue the research and analysis of defense acquisition statutes, regulations, and policies.

In the committee's report accompanying H.R. 5155, the National Defense Authorization Act for Fiscal Year 2019, the committee provided guidance to the effect that the records of the acquisition advisory panel, established under section 809 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92), should be moved to the Eisenhower School of the National Defense University, which would continue to do research and make recommendations to the Congress on improving the Department of Defense's (DoD) acquisition system. The intent of the Center for Acquisition Innovation would be to eliminate the need for commissioning future acquisition reform advisory panels, such as the Section 809 panel and the previous Section 800 panel (established pursuant to the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510).

The committee notes that the new section 2165 would require the Center to annually propose innovative policy alternatives directly to Congress to address acquisition challenges in order to deliver capabilities to the warfighter inside the turn of our near peer competitors and non-state actors. The committee expects the Center to work with stakeholders within and outside the Department in developing its proposals. In addition, to ensure adequate staffing, this section would exempt the Center from the full time equivalent levels applicable to the Eisenhower School.

In addition, this section would provide for the transfer to and maintenance of the records of the Section 809 Panel at the Eisenhower School. Working papers, records of interview, and any other draft work products generated for any purpose by the Section 809 Panel during its research are covered by the deliberative process privilege exemption under paragraph (5) of section 552(b) of title 5, United States Code, and shall be available solely for academic research, subject to the academic freedom and non-attribution policies of the National Defense University.

1 **SEC. ____ . ESTABLISHMENT OF CENTER FOR ACQUISITION INNOVATION AT**
2 **THE EISENHOWER SCHOOL OF THE NATIONAL DEFENSE**
3 **UNIVERSITY.**

4 (a) ESTABLISHMENT OF CENTER.—

5 (1) IN GENERAL.—Chapter 108 of title 10, United States Code, is amended by
6 inserting after section 2165 the following new section:

7 **“§ 2166. National Defense University: Center for Acquisition Innovation**

8 “(a) ESTABLISHMENT.—There is in the Dwight D. Eisenhower School for National
9 Security and Resource Strategy of the National Defense University a Center for Acquisition
10 Innovation. The Center shall operate as an academic entity within the Eisenhower School
11 specializing in innovation relating to the defense acquisition system.

12 “(b) DIRECTOR.—The Director of the Center shall be an individual who is a distinguished
13 scholar of proven academic, management, and leadership credentials with a superior record of
14 achievement and publication relating to the defense acquisition system.

15 “(c) MISSION.—(1) The mission of the Center is to provide to policymakers in the
16 Department of Defense, Congress, and throughout the Government, academic analyses and
17 policy alternatives for innovation in the defense acquisition system. The Center shall accomplish
18 that mission by a variety of means intended to widely disseminate the research findings of the
19 Center.

20 “(2) In carrying out the mission under paragraph (1), the Center shall, on an ongoing
21 basis, review the statutes and regulations applicable to the defense acquisition system. The
22 objective of such review is to provide policy alternatives for streamlining and improving the

1 efficiency and effectiveness of the defense acquisition process in order to ensure a defense
2 technology advantage for the United States over potential adversaries.

3 “(d) IMPLEMENTATION REVIEW OF SECTION 809 PANEL RECOMMENDATIONS AND CENTER
4 POLICY ALTERNATIVES.—(1) The Center shall, on an ongoing basis, review implementation of
5 the recommendations of the Section 809 Panel and policy alternatives provided by the Center. As
6 part of such review, the Center shall—

7 “(A) for recommendations or policy alternatives for the enactment of legislation,
8 identify whether (or to what extent) the recommendations or policy alternatives have
9 been adopted by being enacted into law by Congress;

10 “(B) for recommendations or policy alternatives for the issuance of regulations,
11 identify whether (or to what extent) the recommendations or policy alternatives have
12 been adopted through issuance of new agency or Government-wide regulations; and

13 “(C) for recommendations or policy alternatives for revisions to policies and
14 procedures in the executive branch, identify whether (or to what extent) the
15 recommendations or policy alternatives have been adopted through issuance of an
16 appropriate implementing directive or other form of guidance.

17 “(2) In this subsection, the term “Section 809 Panel” means the panel established by the
18 Secretary of Defense pursuant to section 809 of the National Defense Authorization Act for
19 Fiscal Year 2016 (Public Law 114-92), as amended by section 863(d) of the National Defense
20 Authorization Act for Fiscal Year 2017 (Public Law 114-328) and sections 803(c) and 883 of the
21 National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91).

1 “(d) FUNDING AND STAFFING.—(1) There shall be available for the Center for any fiscal
2 years not less than the amount of \$1,500,000 (in fiscal year 2019 constant dollars), in addition to
3 any other amount available for that fiscal year for the National Defense University.

4 “(2) Personnel of the Center shall not be counted for purposes of any limitation on the
5 number of full-time equivalent employees applicable to the Dwight D. Eisenhower School for
6 National Security and Resource Strategy.

7 “(f) ANNUAL REPORT.—(1) Not later than July 31 each year, the Center shall submit to
8 the Secretary of Defense and the Committees on Armed Services of the Senate and House of
9 Representatives concurrently a report describing the activities of the Center during the previous
10 year and providing the findings, analysis, and policy alternatives of the Center relating to the
11 defense acquisition system.

12 “(2) Each such report shall be submitted in accordance with paragraph (1) without further
13 review within the executive branch.

14 “(3) Each report under paragraph (1) shall include the following:

15 “(A) Results of academic research and analysis.

16 “(B) Results of the implementation reviews conducted pursuant to
17 subsection (d).

18 “(C) Policy alternatives for such legislative and executive branch action as
19 the Center considers warranted.

20 “(D) Specific implementation language for any statutory changes
21 recommended.

22 “(g) DEFINITION.—In this section, the term ‘defense acquisition system’ has the meaning
23 given that term in section 2545(2) of this title.”.

1 (2) CLERICAL AMENDMENT.—The table of sections at the beginning of such
2 chapter is amended by inserting after the item relating to section 2165 the following new
3 item:

“2166. National Defense University: Center for Acquisition Innovation.”.

4 (b) STARTUP OF CENTER.—The Secretary of Defense shall establish the Center for
5 Acquisition Innovation under section 2166 of title 10, United States Code, as added by
6 subsection (a), not later than March 1, 2020. The first Director of the Center shall be appointed
7 not later than June 1, 2020, and the Center should be fully operational not later than June 1,
8 2021.

9 (c) IMPLEMENTATION REPORT.—(1) Not later than January 1, 2021, the President of the
10 National Defense University shall submit to the Secretary of Defense a report setting forth the
11 President's organizational plan for the Center for Acquisition Innovation, the proposed budget for
12 the Center, and the timetable for initial and full operations of the Center. The President of the
13 National Defense University shall prepare the report in consultation with the Director of the
14 Center and the Director of the Dwight D. Eisenhower School for National Security and Resource
15 Strategy of the University.

16 (2) The Secretary of Defense shall transmit the report under paragraph (1), together with
17 whatever comments the Secretary considers appropriate, to the Committee on Armed Services of
18 the Senate and the Committee on Armed Services of the House of Representatives not later than
19 February 1, 2021.

20 (d) RECORDS OF THE SECTION 809 PANEL.—

21 (1) TRANSFER AND MAINTENANCE OF RECORDS.—Following termination of the
22 Section 809 Panel, the records of the panel shall be transferred to, and shall be
23 maintained by, the Dwight D. Eisenhower School for National Security and Resource

1 Strategy of the National Defense University. Such transfer shall be accomplished not
2 later than August 1, 2019.

3 (2) STATUS OF RECORDS.—Working papers, records of interview, and any other
4 draft work products generated for any purpose by the Section 809 Panel during its
5 research are covered by the deliberative process privilege exemption under paragraph (5)
6 of section 552(b) of title 5, United States Code, and shall be available solely for academic
7 research, subject to academic freedom and non-attribution policies of the National
8 Defense University.

9 (3) DEFINITION.— In this section, the term “Section 809 Panel” means the panel
10 established by the Secretary of Defense pursuant to section 809 of the National Defense
11 Authorization Act for Fiscal Year 2016 (Public Law 114-92), as amended by section
12 863(d) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-
13 328) and sections 803(c) and 883 of the National Defense Authorization Act for Fiscal
14 Year 2018 (Public Law 115-91).

For reference, the text of the definition referred to in subsection (f) of the draft is as follows:

10 U.S.C. 2545(2):

(2) The term "defense acquisition system" means the workforce engaged in carrying out the acquisition of property and services for the Department of Defense; the management structure responsible for directing and overseeing the acquisition of property and services for the Department of Defense; and the statutory, regulatory, and policy framework that guides the acquisition of property and services for the Department of Defense.