

GAO

December 1993

ACQUISITION  
REFORM

DOD Acquisition Law  
Advisory Panel's  
Operations and Report



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National Security and  
International Affairs Division

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December 1, 1993

The Honorable John Glenn  
Chairman, Committee on Governmental Affairs  
United States Senate

The Honorable John Conyers, Jr.  
Chairman, Committee on Government Operations  
House of Representatives

In response to your requests, we reviewed certain matters relating to the Department of Defense Acquisition Law Advisory Panel and its final report entitled Streamlining Defense Acquisition Laws. Section 800 of the National Defense Authorization Act for Fiscal Year 1991 (P.L. 101-510) directed the Department of Defense (DOD) to establish an advisory panel (referred to as the Section 800 Panel) on streamlining and codifying acquisition laws and to issue a report on the Panel's actions to the Congress in January 1993.

As requested, we (1) reviewed whether the selection of the Panel members and the operations of the Panel fulfilled the requirements of the Federal Advisory Committee Act (FACA) and the Panel's authorizing legislation; (2) analyzed and described the information-gathering and analytical approaches the Panel used; and (3) reviewed the Panel's report and determined the extent to which the report presents opposing, or otherwise differing, views to its recommendations for statutory change. We did not review Panel recommendations to retain statutes. Appendix I contains more details on our scope and methodology.

As agreed, we also identified Panel recommendations that, if adopted, would change acquisition laws applicable to all federal agencies or create new inconsistencies in the statutory requirements for DOD and civilian agencies' procurement actions. Appendix IV presents this information.

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## Results in Brief

The Panel's activities complied with the requirements of FACA and the Panel's authorizing legislation. The Panel members had expertise in acquisition law and procurement policy and "diverse experiences in the public and private sectors," as required by Section 800. Given the Panel's overall mandate to review and recommend changes to acquisition laws, the members' professional qualifications and experience also fulfilled FACA's balanced membership provision. In addition, the Panel's

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administrative actions satisfied FACA's procedural requirements, which include filing a charter, publishing timely notices of meetings, conducting meetings open to the public, and preparing detailed minutes of meetings.

The Panel had six functional and two ad hoc working groups that were the focal points for collecting and analyzing information on major statutes and preparing alternative proposals for legislative changes to be decided by the Panel as a whole.<sup>1</sup> The working groups obtained information on the impact of statutes and proposed recommendations for statutory change from a variety of sources, including Panel members and their organizations; legislative histories and actions; comments solicited from military departmental staffs, other government agencies, trade associations, and other private sector groups; and comments received through Federal Register notices and at Panel and working group meetings. The working groups analyzed the input and relied on their own expertise to propose recommendations in line with the Panel's goals and objectives. Before voting on proposed recommendations, Panel members often solicited additional information and comments.

The Panel's report includes views that differ from its recommendations, although the Panel was not required either by law or the reporting format it adopted to report on the views it considered in formulating each of its recommendations. To put our findings in perspective, we placed each of the 335 recommendations for statutory change in the Panel's report into one of four categories. For example, we placed 184 (55 percent) in the category "substantive and/or differing views." The two factors we considered most important in placing a recommendation in this category were (1) whether the Panel's recommendation would substantively change major DOD or governmentwide procurement statutes and processes and/or (2) whether the Panel's report or other information showed that either government or private sector groups within the acquisition community disagreed with the recommendation.<sup>2</sup> The Panel's report cites differing views for 71 (39 percent), including in-depth discussion of differing views for 30, of these 184 recommendations.

Approximately 26 percent of the 335 recommendations for statutory change appear to be noncontroversial, because they are limited to

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<sup>1</sup>Each working group consisted of at least two Panel members plus supporting staff.

<sup>2</sup>Opposing or differing views on a particular recommendation were not necessarily uniform. For example, in some instances, individual Panel proposals were considered too limited by some and too far-reaching by others; in other cases, commenters proposed alternative statutory changes inconsistent with what the Panel proposed.

repealing outdated or superseded laws, rewriting laws to eliminate redundancies and inconsistencies, or improving clarity. Another 15 percent are limited merely to conforming statutory language intended to bring the statutes into agreement with Panel recommendations to change other statutes.<sup>3</sup> For 15 recommendations (4 percent), it was unclear whether the proposed statutory changes would generate opposition to their adoption.

## Background

Section 800 of the National Defense Authorization Act for Fiscal Year 1991 directed the Under Secretary of Defense for Acquisition to appoint a panel of recognized experts in acquisition laws and procurement policy who "reflect diverse experiences in the public and private sectors" to (1) review the acquisition laws applicable to DOD with a view toward streamlining the defense acquisition process; (2) make any recommendations for the repeal or amendment of such laws as the Panel considered necessary; and (3) prepare a proposed code of relevant acquisition laws. The final report was submitted to the Congress on January 14, 1993. The Section 800 Panel operated under the sponsorship of the Defense Systems Management College (DSMC), which established a Panel Task Force of DSMC, military department, and Defense Logistics Agency representatives to provide research and administrative support to the Panel.

The Panel grouped DOD-related procurement laws into eight subject areas for review and reporting purposes: contract formation; contract administration; service-specific laws and major systems statutes; socioeconomic laws,<sup>4</sup> small business, and simplified acquisition threshold;<sup>5</sup> intellectual property; standards of conduct; defense trade and cooperation; and commercial items. Throughout its work, the Panel concentrated on formulating changes to streamline and simplify the defense acquisition process and to improve DOD's capability to purchase commercial items and technologies. Two major Panel proposals, for example, would exempt commercial item procurements from numerous requirements and increase the use of simplified acquisition procedures. The Panel's review of more than 600 laws produced an 1,800-page report

<sup>3</sup>The Panel's report cites differing views for seven of the recommendations in this category.

<sup>4</sup>Socioeconomic laws may require that government contracts implement national public policy goals. For example, a government contract may contain clauses prescribing how a contractor is to compensate employees.

<sup>5</sup>The term "simplified acquisition" refers to a government purchase awarded based on simplified procedures that eliminate such elements as written price quotations, full and open competition, data to support price reasonableness, lengthy contracts, or other contracting requirements. A threshold is usually stated in terms of the dollar value of the purchase.

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with over 300 specific recommendations to amend, repeal, delete, or consolidate statutes, and in some cases, create new laws.

Since publication of the Panel's report, many of the Panel's recommendations have been incorporated in whole or in part in other procurement reform studies, such as the reports of the Defense Science Board Task Force on Defense Acquisition Reform and the National Performance Review. Also, comprehensive legislative proposals recently introduced in the Congress to streamline or otherwise revise government acquisition laws contain language directly from or similar to Panel recommendations. These bills are scheduled for review, debate, and vote in the coming months. In subsequent work, we will be analyzing the merits and potential impact of several of the Panel's major recommendations that appear in procurement reform legislation relating to commercial item acquisitions, socioeconomic laws, simplified acquisition thresholds and procedures, and electronic commerce, among others.

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## Panel Selection and Operations Complied With Statutory Requirements

FACA, Public Law 92-463, as amended, provides a means for the federal government to account for and manage federal advisory committees. The Section 800 Panel was subject both to FACA's requirements and those of its own specific authorizing legislation. Section 5(b) (2) of FACA states that advisory committee membership should "be fairly balanced in terms of the points of view represented and the functions to be performed" by the advisory committee. Firm standards do not exist in the statute or implementing regulations for determining what constitutes balanced membership. However, under relevant case law interpreting FACA, what constitutes balanced membership with regard to any particular advisory committee depends upon the committee's overall mandate.

The Section 800 Panel was composed of 13 individuals with extensive experience in acquisition law and procurement policy issues. The Panel had seven members from the government and six members from the private sector. Three of the government panelists and four of the private sector panelists were practicing attorneys.

In assessing the selection of panelists with respect to the Panel's overall mandate to review and recommend changes to streamline and recodify defense procurement laws, we found no basis to conclude (1) that the Panel was not balanced within the meaning of FACA or (2) that the selection of panelists failed to "reflect diverse experiences in the public and private sectors," as required by the authorizing legislation.

Regarding your specific questions on these matters, none of the Panel members was selected as a representative of small business owners, minorities, women, or defense contractor rank-and-file workers. However, such representation was not required by FACA or Section 800. We asked the panelists to briefly describe their backgrounds and experiences relating specifically to small business, minority business, women-owned business, and contractor employees, and we received responses from 10 of the 13 Panel members. The panelists' responses described experiences dealing with acquisition issues affecting all of these groups, while representing clients or serving as program advisors, legal advisors, government attorneys, or policy experts.

In selecting panel members, DOD officials said they were looking for individuals with extensive backgrounds in acquisition who would be able to devote considerable time to the Panel. They said that, given the breadth of the Panel's mandate to address all aspects of acquisition, they selected panelists with broad knowledge and experience in dealing with the whole spectrum of DOD acquisition policy and legal issues, including those relating to these groups.

FACA also requires advisory committees to follow certain administrative procedures. These procedures include filing a committee charter, publishing timely notices of meetings in the Federal Register, permitting public access to and participation in meetings, preparing detailed minutes of meetings, and making working papers and other panel documents available to the public. Our review of the Panel's administrative operations and procedures showed the Panel complied with FACA requirements. In addition, the Panel's report satisfied the legislative requirements of Section 800 of the authorization act to review the acquisition laws and recommend necessary changes. Appendix II details the Panel's compliance with specific FACA procedures and includes descriptions of the process used to select Panel members and panelists' experiences dealing with acquisition issues affecting small business, minority business, women-owned business, and contractor employees. Appendix III presents biographical information on Panel members.

## The Panel Used a Variety of Approaches to Collect and Analyze Data

The Panel had six functional and two ad hoc working groups that were the focal points for collecting and analyzing information on specific statutes and preparing alternative proposals for legislative changes to be decided by the whole Panel. The working groups collected data on the impact of specific statutes and reactions to proposed alternatives, as well as

background and policy information from a variety of sources. Sources included Panel members' views and comments, as well as those solicited by individual Panel members from their organizations and personal contacts; legislative abstracts, research studies, and position papers developed by the Panel Task Force and policy research groups; comments solicited from military departmental staffs, other governmental agencies, and trade, professional, and other private sector organizations; and comments received through Federal Register notices and at working group and Panel meetings.

The Panel and its working groups received a great deal of information, and often differing views, from government and industry sources regarding why a law should or should not be repealed or amended, including comments on alternative legislative proposals. Some Panel members and staff said that while many of the reports and comments submitted contained specific examples of claimed effects of various acquisition statutes, they found little empirical data available on the impact of specific statutes. Through an iterative process of research, soliciting and analyzing comments, and discussions among Panel members and Task Force staff, the working groups developed alternative proposals for legislative changes to individual statutes and groups of statutes. The Panel in turn reviewed and discussed the working groups' proposals and supporting information and, in some cases, sought additional information before deciding on which alternative to recommend in the final report. In analyzing information and framing proposals for legislative changes, Panel members relied extensively on their own individual and collective experience, judgments, and expertise.

## The Panel's Report Includes Views That Differ From Its Recommendations

We categorized 184 (55 percent) of the Panel's 335 specific recommendations for statutory change as substantive and/or having differing views associated with them. The Panel presents differing views in its report for 71 (39 percent) of the 184 recommendations. The report's treatment of differing views ranges from merely acknowledging such views, to acknowledging and stating the Panel's nonconurrence, to discussing the views in more depth.

## Over Half of the Panel's Recommendations for Statutory Change Are Substantive, Have Differing Views, or Both

We categorized the report's recommendations to amend, repeal, delete, or consolidate statutes, and in some cases to create new laws, as "substantive and/or differing views," "housekeeping" (noncontroversial), or "conforming" (statutory language agreement). We categorized recommendations that we could not place in any of the first three categories as "uncertain."<sup>6</sup>

Over half (55 percent) of the Panel's recommendations for statutory change (1) would substantively change DOD or governmentwide acquisition statutes and/or (2) have generated both opposition and support. These recommendations would, among other things, significantly alter current statutory restrictions and requirements for government buyers and contractors or provide sweeping changes to procurement policies, processes, and practices on a DOD-wide or governmentwide basis.

For example, the Panel proposes to create a new, DOD-wide subchapter in Title 10 of the United States Code for commercial item acquisitions. The proposed subchapter would exempt commercial item acquisitions from numerous statutes, ease requirements to provide pricing information, and limit government audit rights. Eight of the Panel's 10 recommendations regarding the proposed subchapter are in the substantive and/or differing views category. In another example, the Panel proposes to establish a "simplified acquisition threshold." Specific recommendations to implement this proposal include a substantive recommendation to expand the use of simplified acquisition procedures by exempting contracts below the "simplified acquisition threshold" from the requirements of most socioeconomic laws and corresponding contract clauses.

## Treatment of Differing Views Ranges From Acknowledgement to Discussion

The Panel's report cites differing views for 78 of its recommendations for statutory change. Seventy-one of these are in the "substantive and/or differing views" category.<sup>7</sup> The Panel provided in-depth discussion of differing views for 30 of these recommendations. The Panel was not required either by law or the reporting format it adopted to report on the opposing, or otherwise differing, views it considered in formulating each of its recommendations.<sup>8</sup> Our analysis shows that the report's treatment of

<sup>6</sup>Appendix IV lists all Panel recommendations for statutory change and categorizes each one as noncontroversial; substantive and/or differing views; conforming; or uncertain.

<sup>7</sup>We found differing views for seven other recommendations in the "conforming" category.

<sup>8</sup>Differing views appear at various places in the Panel's report, including chapter introductions, introductions to groups of statutes relating to a common theme, and discussions of specific recommendations to change a statute or create a new statute.



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differing views for the 71 recommendations ranges from (1) merely acknowledging such views, to (2) acknowledging and briefly stating the Panel's nonconcurrence, to (3) discussing such views in more depth in 30 instances.<sup>9</sup> The following examples illustrate each of these three types of treatment of differing views.

1. The Panel recommends repealing outright a statute that requires the Secretary of Defense to prescribe standards, in regulations, for contractor inventory accounting systems. The DOD Inspector General recommends delaying repeal. The Panel's report merely acknowledges that the DOD Inspector General is recommending retention of the statute until the regulatory guidance is updated. (See Panel recommendation 2.4.1.4.)

2. The Panel recommends repealing a statute that encourages technology transfer between DOD laboratories and research centers and other organizations or private persons. The Panel's report acknowledges and briefly states the Panel's nonconcurrence with the views of the Army Domestic Technology Transfer Program Manager that the statute should be retained because it was the only statutory expression of congressional intent to place responsibility upon top Cabinet members for technology transfer. (See Panel recommendation 5.2.2.4.)

3. The Panel recommends that a statute concerning rights in technical data be changed to broaden the authority of the Secretary of Defense to test alternative methods of dealing with technical data. The Panel's report states that this change would help to meet the government's procurement needs while protecting commercially valuable technology. The report discusses in more depth the views of government and industry representatives concerning the government's rights in technical data, in an introductory section preceding recommendations. The report concludes that these contending points of view are virtually irreconcilable and, therefore, a new approach is needed. (See Panel recommendation 5.1.1.4.-IV.)

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### Most Other Panel Recommendations Make "Housekeeping" and Conforming Language Changes

Our analysis showed that about 26 percent of the Panel's recommendations appear to fall into the "housekeeping," or noncontroversial, category. Housekeeping changes are intended to make it easier to understand, administer, and implement a streamlined system of acquisition laws by eliminating obsolete, outdated, or superseded statutes;

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<sup>9</sup>We also found 29 acknowledgements of differing views and 16 acknowledgements with brief statements of nonconcurrence. (Several recommendations had differing views from more than one source.)

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removing statutory inconsistencies and redundancies; and clarifying existing statutory language.

The housekeeping category includes such Panel recommendations as (1) substituting the term “head of the contracting activity” for “head of the procuring activity” to reflect current usage and achieve consistency with the Federal Acquisition Regulation and (2) deleting a one-time reporting requirement on subcontracting issues, which had a 1984 deadline.

We also included within the housekeeping category a relatively small number of other noncontroversial recommendations for which there appears to be wide support and acceptance and that did not appear to involve significant changes to procurement requirements. For example, we included within this category a Panel recommendation to establish, and provide access to, a protest file that could be reviewed by other unsuccessful offerers, once one protest is lodged. The purpose of the protest file would be to prevent unnecessary multiple protests on the same proposed contract award.

Approximately 15 percent of the Panel’s recommendations are conforming amendments. We categorized as “conforming” those Panel recommendations that are limited merely to bringing statutory language into agreement with Panel recommendations to change other statutes. For example, the Panel’s recommendation to amend 41 U.S.C. 403(11) to adopt the term “simplified acquisition threshold” at a dollar value of \$100,000 in place of the “small purchase threshold,” currently \$25,000, is substantive and would apply governmentwide. If this recommendation were adopted, conforming amendments to other statutes would be needed where the term “small purchase threshold” is currently used, such as 41 U.S.C. 605 and 10 U.S.C. 2304.

For about 4 percent of the Panel’s recommendations for specific statutory change, the extent of support and acceptance is uncertain and could not be determined from information in the Panel’s report.

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## Observation

The Panel completed a monumental task in reviewing more than 600 laws in depth and producing a comprehensive report with specific legislative proposals to streamline the defense acquisition process. The Panel’s specific proposals move the procurement reform debate forward, beyond generalizations about the need for reform. As a result, the Panel’s report

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and recommendations are central to most of the major procurement reform efforts now underway.

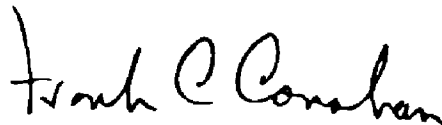
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We conducted our review between December 1992 and September 1993 in accordance with generally accepted government auditing standards. As requested, we did not obtain agency comments on this report. However, we discussed the information in the report with DOD officials and members of the Section 800 Panel and Panel Task Force. They generally concurred with the contents of the report. We have included their comments where appropriate.

As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time, we will send copies to other congressional committees; the Secretary of Defense; and the Administrators of the Office of Federal Procurement Policy and General Services Administration. We will also make copies available to others on request.

This work was performed under the direction of David E. Cooper, Director, Acquisition Policy, Technology, and Competitiveness Issues, who can be reached at (202) 512-4587 if you or your staffs have any questions concerning this report. Other major contributors are listed in appendix V.

Sincerely yours,



Frank C. Conahan  
Assistant Comptroller General



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## Abbreviations

DOD	Department of Defense
DSMC	Defense Systems Management College
FACA	Federal Advisory Committee Act
GSA	General Services Administration
NATO	North Atlantic Treaty Organization
OFPP	Office of Federal Procurement Policy



# Scope and Methodology

To determine the Panel's compliance with the requirements of the Federal Advisory Committee Act (FACA) and Section 800 of the National Defense Authorization Act for 1991, we interviewed the Department of Defense (DOD) officials involved in the panelist selection process and those responsible for the Panel's administrative functions. We examined Panel documentation related to the panelist selection process and the Panel's administrative procedures and operations. We also reviewed information about each panelist's background and experience.

To review the Panel's information-gathering and analytical approaches, we interviewed panelists and members of the Panel Task Force responsible for research, writing, and providing administrative support to the Panel members. We reviewed minutes of Panel meetings, research information, and documents developed and comments received by the Panel's working groups, Panel mailing lists, and Panel documents related to the process and procedures the Panel and its working groups used in analyzing and reviewing acquisition laws and making decisions to recommend revisions to laws.

To determine the extent to which the Panel report included opposing, or otherwise differing, views to its recommendations for statutory changes, we categorized each Panel recommendation as either "substantive and/or differing views," noncontroversial ("housekeeping"), or conforming. Our categorization depended on three factors: (1) the nature of the recommendation, e.g., amend, repeal, delete, or consolidate; (2) whether the recommendation would substantively change major DOD or governmentwide procurement statutes, policies, requirements, and practices; and/or (3) whether we identified significant opposing, or differing, views to the recommendation. In addition to these categories, we categorized a small number of recommendations as "uncertain" because we could not determine from the report and other available information if the proposed statutory change was significant enough to generate opposition to its adoption.

"Housekeeping" covered those recommendations intended primarily to produce a more streamlined system of acquisition laws that would be more easily understood, administered, and implemented.

Recommendations in the housekeeping category included those to repeal, amend, or delete outdated or superseded statutes; consolidate related statutes; eliminate statutory redundancies and inconsistencies; and clarify existing statutory language. We also included within this category a relatively small number of noncontroversial recommendations for minor

changes to procurement requirements that appear to have widespread support and acceptance within the acquisition community. The category of conforming statutory changes was limited to recommendations to amend statutory language in order to implement or conform to other Panel recommendations. We excluded from both the housekeeping and conforming amendments categories any recommendation that would substantively change major DOD-wide or governmentwide procurement statutes, policies, and practices.

After categorizing the recommendations, we reviewed the Panel's report to determine the extent to which discussions of recommendations in the report included opposing or otherwise differing views. We considered differing views to include citations to comments from government and private sector organizations and individuals, studies, legislative histories, and other information indicating opposition to changing the law, disagreement with the specific change proposed by the Panel, or alternative recommendations.

We also reviewed the Panel's recommendations to determine if they would change statutes applicable not only to DOD, but to civilian agencies as well; would create new inconsistencies in requirements governing DOD and civilian agency procurements; or were limited only to DOD. We recognized that current statutory requirements applicable to DOD and civilian agencies are in some instances already inconsistent and that some of the Panel's recommendations are aimed at making acquisition requirements consistent governmentwide. Our analysis was based on information in the Panel's report and on our own legal research.



# Federal Advisory Committee Act and Related Requirements

This appendix provides information on the operations and administrative procedures of DOD's Acquisition Law Advisory Panel relating to the requirements of FACA and Section 800 of the National Defense Authorization Act for Fiscal Year 1991 (P.L. 101-510). Issues addressed include balance of membership (including the process used to select Panel members), publication of notices of meetings, the openness of meetings, the Panel's charter, minutes of meetings, and access to working papers and other Panel documents.

## Balance of Panel Membership

Section 800 of the Fiscal Year 1991 National Defense Authorization Act required that the Under Secretary of Defense for Acquisition establish under the sponsorship of the Defense Systems Management College (DSMC) an advisory panel on streamlining and codifying acquisition laws.<sup>1</sup> The section also required the Under Secretary to ensure that the members of the Panel "reflect diverse experiences in the public and private sectors."

FACA, Public Law 92-463, as amended, 5 U.S.C. App. I, section 5(b) (2), states that advisory committee membership should be "fairly balanced in terms of the points of view represented and the functions to be performed." The balance of membership that advisory committees must achieve is not specifically defined in FACA or in implementing regulations promulgated by the General Services Administration (GSA).<sup>2</sup> The GSA regulations implementing FACA state that, for the purpose of achieving balance, agencies should consider having advisory committee membership represent a "cross section of interested persons and groups with demonstrated professional or personal qualifications or experience to contribute to the functions and tasks to be performed."<sup>3</sup> The guidance on achieving balance was drawn from the 1983 court ruling in National Anti-Hunger Coalition v. Executive Committee of the President's Private Sector Survey on Cost Control, 557 F. Supp. 524 (D.D.C. 1983), aff'd, 711 F.2d 1071 (D.C.Cir. 1983), j'ment amended, 566 F. Supp. 1515 (D.D.C. 1983).

<sup>1</sup>The Defense Systems Management College is a DOD educational institution that, since 1971, has trained program managers and program executives from the uniformed services, defense industry, and all branches of the federal government.

<sup>2</sup>The concept of balance is also not defined in DOD's directive on advisory committees (DOD Directive 5105.4, Sept. 5, 1989), which restates FACA's balance requirement and provides that committee sponsors are to develop criteria for membership consistent with committee requirements.

<sup>3</sup>41 C.F.R. 101-6.1007.

In assessing the selection of panelists with respect to the Panel's overall mandate to review the acquisition laws applicable to DOD and recommend changes to streamline and recodify relevant procurement laws, we found no basis to conclude (1) that the Panel was not balanced within the meaning of FACA or (2) that the selection of panelists failed to reflect diverse experiences in the public and private sectors.

Panel membership was composed of 13 individuals with extensive experience in acquisition laws and procurement policy; these were the Chairman and six other members from the government sector and the remaining six members from the private sector. The Panel chairman was the Commandant, DSMC. Of the six other members from the government sector, three are senior attorneys with extensive experience in DOD acquisition; the other three have experience and expertise in procurement policy. Five of the six government members were DOD representatives from the Office of the Secretary of Defense, the Defense Logistics Agency, and each of the three military services. The other government member was the Administrator, Office of Federal Procurement Policy (OFPP), Office of Management and Budget. Of the six members from the private sector, three were practicing attorneys in private law firms, one member worked for a large defense industry association, one was a university professor of government contract law, and one member was vice president of contracts for a large company that sells to both the government and commercial enterprises.

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### **Process Used to Select Panel Members**

The DOD participants in the panelist selection process said the process consisted of three steps. They described these steps as follows:

- **Step 1:** The Deputy Director, Contract Policy and Administration, Office of the Under Secretary of Defense (Acquisition) and a procurement analyst developed a preliminary list of 47 potential Panel members. They solicited and received suggestions and recommendations from various government and industry sources. The Deputy Director said that DSMC sent a list of 20 potential Panel members with biographies and/or resumes. He also recalled getting recommendations from the Aerospace Industries Association, the Electronic Industries Association, the National Security Industry Association, the Section of Public Contract Law of the American Bar Association; the military departments; congressional staff of the House and Senate Armed Services Committees; the Director of Defense Procurement and her staff; and the Assistant General Counsel (Acquisition and Logistics), Office of the Secretary of Defense.

- **Step 2:** DOD selecting officials, the Director of Defense Procurement, and the Deputy General Counsel (Acquisition and Logistics) reviewed the list of 47 potential Panel members and added 2 additional names. The same DOD officials then selected a primary list of 13 Panel members from the list of 49 potential members. (Criteria used for selecting the 13 Panel members are discussed below.) According to the Director of Defense Procurement, because Section 800 of Public Law 101-510 directed the establishment of the Panel under the sponsorship of DSMC, it was a logical choice to appoint the Commandant of the College as the Chairman of the Panel.
- **Step 3:** The list of primary Panel members was approved by the Under Secretary of Defense for Acquisition after coordination with the DOD General Counsel and the Assistant to the Secretary of Defense. All 13 primary nominees accepted the invitations to serve on the Panel.

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### Criteria Used for Selecting Panel Members

There were no written criteria for considering and selecting prospective Panel members. DOD selecting officials said the factors they considered included the following:

- Extensive experience and broad knowledge in the whole spectrum of the defense acquisition process. According to the Director of Defense Procurement, the panelists had to be able to “hit the ground running.”
- A good mixture of experienced and recognized experts in procurement law and policy from government, industry, and academia.
- A working knowledge of procurement laws. That is, the selecting officials wanted individuals who could relate to the everyday experiences of contracting personnel, for example, by having a working knowledge of how statutory requirements affect government contracting officers.
- Personal knowledge of the capability of potential Panel members. For example, the Deputy General Counsel (Acquisition and Logistics) stated he had known the three government sector attorneys on the Panel ever since they started their careers in government contracting and that he had direct knowledge of their abilities as a result of working with them over a long period of time in his capacity as the senior acquisition attorney in DOD.
- Whether government attorneys had the knowledge and experience to recommend and rewrite laws/statutes as needed and had expressed “reasonable frustrations” about procurement laws.
- Time and resource commitment. The Panel needed people who could commit extensive amounts of their time to the Panel’s mission. In addition, it was preferable for panelists to have staffs available to help support the Panel’s research of legal statutes.

## Other Facts Relating to Panel Membership

Regarding your specific questions on these matters, none of the Panel members was selected as a representative of small business owners, minorities, women, or defense contractor rank-and-file workers. However, such representation was not required by FACA or Section 800. According to DOD selecting officials, while the panelists were not specialists in single areas of expertise, such as small business and labor issues, they have had broad procurement experience in dealing with these and all aspects of DOD procurement law and policy. In this regard, DOD selecting officials reiterated that a principal criterion for selecting the Panel members was broad knowledge and experience in dealing with the whole spectrum of DOD procurement policy and legal issues.

According to DOD's Deputy General Counsel for Acquisition and Logistics, the selection criteria did not give special consideration to experience that was limited to small business issues; however, following the criteria listed above, when the final selection of Panel members was made, many of the Panel members were, in fact, sensitive to and knowledgeable of small business concerns and issues. For example, the DOD Deputy General Counsel considered the DOD Director, Contract Policy and Administration; the Administrator, OFPP; and the former Deputy General Counsel, Defense Logistics Agency to have extensive experience with small business issues. The Deputy General Counsel said that the panelist from the Aerospace Industries Association is familiar with small business concerns in his current position and through his former positions in DOD and OFPP. In addition, the private sector attorneys from the law firms of Venable, Baetjer, Howard and Civiletti; Williams and Connolly; and Steptoe and Johnson represent clients with small business concerns.

In addition to the biographical information on the Panel members that is presented in appendix III, we asked each Panel member to provide a brief description of his background and experience relating specifically to small business, minority business, women-owned business, and contractor employees. The responses we received are summarized below:

- Two panelists who are practicing attorneys in private law firms stated they have extensive past experience and presently continue to represent a variety of small businesses, including minority and women-owned small businesses.
- Two panelists, one knowledgeable in government procurement policy and the other a vice president of contracts for a large company, stated they had served as advisors and/or committee members on issues related to DOD's mentor-protégé program. The purpose of the program is to provide

incentives for prime contractors to increase small disadvantaged business participation in DOD subcontracting.

- One panelist who represents a large defense industry association stated his duties include being a member of a small disadvantaged business development panel that assists association members to meet their goals for small disadvantaged business contracting. His former responsibilities at OFPP included matters relating to a broad range of socioeconomic legislation, including labor and small and minority business statutes.
- One panelist who was a former government attorney stated that as part of his duties at the Defense Logistics Agency he dealt extensively with contractor employees in the whistleblower program and in his activities relating to suspension and debarment procedures.
- One panelist who is a senior government attorney served as the legal advisor to the Director of Small and Disadvantaged Business Utilization, U.S. Army, and in this capacity had direct experience relating to small and minority businesses.
- Three panelists—a government attorney, a government procurement policy expert, and the former Commandant, DSMC—indicated that they had never specialized in these topics but that such issues represented a regular portion of their work.
- Three panelists did not respond to our request.

## The Panel Complied With the Administrative Procedures of FACA

Section 10 of FACA requires that (1) advisory committee meetings shall be open to the public, unless a determination is made to close them under specific exemptions; (2) timely public notice of both open and closed meetings shall be published in the Federal Register; (3) detailed minutes of meetings shall be prepared; and (4) the working papers and other related documents prepared by advisory committees shall be available for public inspection. In addition, Section 9 of FACA requires an advisory committee to be chartered before it takes any action.

All 19 of the Panel's meetings were open to the public. There were no closed or partially closed Panel meetings. Timely notices of all the meetings were published in the Federal Register. The notices contained the name of the advisory committee; the time, place, and purpose of the meeting; a summary of the agenda where possible; and whether the public was to have been permitted to attend or participate in the meeting. In addition, each of the Panel's six functional working groups placed a notice in the Federal Register seeking public comments on the acquisition statutes reviewed by the group.

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**Appendix II  
Federal Advisory Committee Act and  
Related Requirements**

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Detailed minutes were prepared for all Panel meetings. They contain a record of the persons participating, a description of matters discussed, and conclusions/decisions made by the Panel. Minutes were certified by the executive secretary and the Panel chairman.

Although the Panel ceased to exist as of January 1993, all records, reports, transcripts, minutes, working papers, studies, agendas, and related documents are archived at DSMC and are available for public inspection.

Section 9 of FACA requires an advisory committee to file a charter with the Administrator of General Services, the standing committees of the Senate and the House of Representatives having legislative jurisdiction of the agency, and the Library of Congress before meeting or taking any action. The Panel's charter was filed with GSA, the Senate and House Committees on Armed Services, and the Library of Congress on May 2, 1991, prior to the first Panel meeting, which was held in September 1991. The charter contains information on the Panel's objectives and scope of activity; time limits for the Panel; the agency providing administrative support; and a description of Panel duties.

# Information on Panel Membership

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This appendix provides biographic information on individuals who served on the DOD Acquisition Law Advisory Panel.

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## Panel Chairman

Rear Admiral William L. Vincent—U.S. Navy, retired in 1993 as the Commandant, DSMC. As Commandant, he was responsible for educating mid-level functional managers in the principles and practices needed to effectively execute the weapons system procurement responsibilities of the DOD components. Formerly the Program Executive Officer for Air Antisubmarine Warfare, Assault, and Special Missions Programs; Program Director, Air, for the Antisubmarine Warfare and Assault Programs; and Program Manager for the P-3 program. Also, the North Atlantic Treaty Organization (NATO) Naval Armaments Officer responsible for the establishment and implementation of NATO cooperative acquisition programs.

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## Panel Members

Mr. Pete A. Bryan—Deputy Director, Contract Policy and Administration, Office of the Under Secretary of Defense (Acquisition). Responsibilities include analyzing proposed legislation, consulting with senior management levels in other government agencies in achieving more uniform and effective policies, serving as a principal advisor to the Defense Acquisition Regulatory Council, and providing overall policy guidance for the Defense Procurement Management Review Program. Former Procurement Analyst at GSA, Department of Energy, Air Force Systems Command, Air Force Plant Office Lockheed-Georgia. These positions encompassed a wide range of pricing and procurement jobs with the government.

Mr. Allan V. Burman—Administrator, OFPP. Former Deputy Administrator, OFPP; Chief, Air Force Branch, National Security Division, Office of Management and Budget; Federal Executive Fellow, Brookings Institute; Special Assistant to the Director of Defense Education, DOD.

Mr. Anthony H. Gamboa—Deputy General Counsel for Acquisition, Office of General Counsel, Department of the Army. Acts on any legal problem, program, or policy affecting the acquisition responsibilities of the Department of the Army, including research, development, acquisition, security assistance, military construction, and fiscal matters related to acquisition. Former Senior Assistant to the General Counsel and Assistant to the General Counsel, Office of the Secretary, U.S. Army.

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**Appendix III**  
**Information on Panel Membership**

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**Mr. John F. Harding**—Vice President, Contracts, Raytheon Company. Directs contract negotiations, monitors compliance with company contract policies, and prepares position papers on legislative and regulatory matters affecting procurement acquisitions. Formerly in contracts administration and marketing, Atlantic Research Corporation. Member, Aerospace Industries Association's Procurement and Finance Council.

**Mr. LeRoy J. Haugh**—Vice President, Procurement and Finance, Aerospace Industries Association. Responsibilities include advising the president of the Association on all issues affecting the procurement function and dealing extensively with executives in industry, other trade associations, federal agencies, and Members of Congress and their staffs. Former Director, Contract Placement and Finance, Office of the Assistant Secretary of Defense (Installations and Logistics); Associate Administrator, OFFP, Office of Management and Budget. Member, Federal Bar Association, American Bar Association, Public Contract Law Section.

**Mr. Thomas J. Madden**—Senior Partner, Venable, Baetjer, Howard and Civiletti. Specializes in government contracts and administrative law and legislative practice. Previously an attorney with DOD in the Office of Naval Research, dealing principally with issues relating to rights in technical data and software under government contracts. Formerly Adjunct Professor, Contract Law, American University; Advisor on Federal Assistance Programs, U.S. Office of Management and Budget; Deputy General Counsel, Law Enforcement Assistance Administration, U.S. Department of Justice; and Chairman, American Bar Association's Section of Public Contract Law. President of the Fellows of the Public Contract Law Section of the American Bar Association.

**Mr. Ralph C. Nash, Jr.**—Professor of Law, National Law Center of The George Washington University. Founder and Director of the Government Contracts Program of the Law Center. Wrote several monographs for the George Washington University Government Contracts program monograph series. Former contract negotiator, U.S. Navy; Assistant Manager of Contracts and Counsel, American Machine and Foundry. Coauthored casebook on federal procurement law, has authored or coauthored various textbooks on government contracts, and has published articles in various law reviews and journals. Member, Procurement Round Table; Fellow, National Contract Management Association.



**Mr. F. Whitten Peters**—Partner, Williams and Connolly. Areas of practice include criminal and civil trial practice; computer-related litigation; government contracts. Formerly, law clerk to the Honorable J. Skelly Wright, Circuit Judge, United States Court of Appeals for the District of Columbia Circuit and law clerk to the Honorable William J. Brennan, Jr., Associate Justice, Supreme Court of the United States. Adjunct Professor, Advanced Criminal Procedure, The Georgetown University Law Center; formerly, Adjunct Lecturer, Government Contracts, The Columbus School of Law of the Catholic University of America. Member, District of Columbia Bar and American Bar Association; Chair, Rules of Professional Conduct Review Committee and member, Legal Ethics Committee, District of Columbia Bar.

**Mr. Gary P. Quigley**—Since January 1993, Counsel for Sidley and Austin's Government Contracts-Litigation practice group. Formerly Deputy General Counsel, Defense Logistics Agency. Managed the Defense Logistics Agency's litigation and fraud remedies programs and supervised General Counsel's field offices. Served as Assistant to the General Counsel of the Navy and Legal Member of the Armed Services Procurement Regulation Committee.

**Major General John D. Slinkard, U.S. Air Force**—Director of Contracting, Headquarters Air Force Materiel Command. Formerly, Deputy Chief of Staff for Contracting, Headquarters Air Force Systems Command; Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force for Acquisition; Deputy for Contracting, Electronic Systems Division; DOD's Federal Acquisition Regulation Program Manager, Office of the Under Secretary of Defense for Research and Engineering; Director of Contract Administration, Headquarters Air Force Contract Management Division; Chief of the Procurement Methods Division, Headquarters Air Force Logistics Command; Procurement Career Counselor, Air Force Military Personnel Center; Chief of the Contract Review Branch, Headquarters 8th Air Force; Deputy Base Procurement Officer at Ernest Harmon Air Force Base.

**Mr. Robert D. Wallick**—Managing Partner, Steptoe and Johnson. Principal practice in government contract law, acquisition issues, and related litigation. Formerly, Chairman, American Bar Association's Section of Public Contract Law; President, Federal Circuit Bar Association; President, National Assistance Management Association. Member, Advisory Council, U.S. Claims Court; Board of Governors, U.S. Claims Court's Bar Association.

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**Appendix III  
Information on Panel Membership**

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**Mr. Harvey J. Wilcox—Deputy General Counsel, Department of the Navy. Responsible for overseeing Navy and Marine Corps legal practice in contracts, real estate, ethics, environmental law, personnel law, intellectual property, and all related litigation. Formerly, Counsel, Naval Air Systems Command; Counsel, Navy ADP Selection Office; Member, Navy Contract Adjustment Board; Guest Lecturer, Army Judge Advocate General's School and Army Logistics Management Center.**

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# Analysis of Acquisition Law Advisory Panel Recommendations

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Table IV.1 presents our descriptions and analysis of the Panel's 335 specific recommendations for statutory change. The recommendations are listed in the order in which they appear in the Panel's report. The following categories are used for our analysis:

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## GAO's Assessments of the Panel's Recommendations

- "Substantive and/or differing views" changes. The recommendations substantively change major DOD-wide or governmentwide procurement statutes affecting policies, processes, practices, or procedures and are subject to differing points of view concerning them.
- "Housekeeping" (noncontroversial) changes. The recommendations repeal, amend, or delete outdated or superseded statutes; consolidate related statutes; eliminate redundancies; and clarify statutes.
- Conforming changes. The recommendations amend statutory language to implement or to bring language into agreement with other Panel recommendations.
- Uncertain. Available information is not sufficient to determine if opposition exists to adoption of the recommendations.

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## Recommendation Implications

- Governmentwide. The recommendations would change statutes that are applicable not only to DOD, but to civilian agencies as well.
- Inconsistent. The recommendations would create inconsistencies in the statutory requirements for DOD and civilian agencies' procurement actions.
- DOD only. The recommendations are limited to statutory requirements for DOD procurements.

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**Appendix IV  
Analysis of Acquisition Law Advisory Panel  
Recommendations**

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**Appendix IV  
Analysis of Acquisition Law Advisory Panel  
Recommendations**

**Table IV.1: Analysis of Acquisition Law Advisory Panel Recommendations**

<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
1.1.1.4.	1-13	10 USC 2301	Congressional defense procurement policy - add objectives	Amend
1.1.2.4.-I	1-22	10 USC 2302(3)	Add more terms and refer to definitions in 41 USC 403	Amend/ consolidate
1.1.2.4.-II	1-22	10 USC 2302(4) & 2302(7)	Change "small purchase threshold" to "simplified acquisition threshold" and refer to 41 USC 403(11); higher threshold for contingency operation	Amend/ consolidate
1.1.2.4.-III	1-23	10 USC 2302(5)	Add definition of "commercial item"	Amend
1.1.2.4.-IV	1-23	10 USC 2302(6)	Add and clarify definition of "nondevelopmental item"	Amend/ consolidate
1.2.1.4.-I	1-46	10 USC 2304(a)	Use of competitive procedures in accordance with law and regulations	Amend
1.2.1.4.-II	1-46	10 USC 2304(b) & (d)	Prohibit agency head determination for a class of contracts	Amend
1.2.1.4.-III	1-46	10 USC 2304(f)	Contracting officer justifies other than competitive procedures	Amend
1.2.1.4.-IV	1-46	10 USC 2304(f)	Approval authorities	Amend
1.2.1.4.-V	1-47	10 USC 2304(f)	Change "procuring activity" to "contracting activity"	Amend
1.2.1.4.-VI	1-47	10 USC 2304(g)	Change "small" to "... value not in excess of the simplified acquisition threshold"	Amend
1.2.1.4.-VII	1-48	10 USC 2304(g)	Change "small purchase threshold" to "simplified acquisition threshold" and "small purchase procedures" to "simplified procedures"	Amend
1.2.1.4.-VIII	1-48	10 USC 2304(h)	Delete reference to Walsh-Healey Act (41 USC 35 - 45)	Amend/ delete
1.2.1.4.-IX	1-48	10 USC 2304(i)	Exempt commercial items from regulations for noncompetitive price negotiation	Amend
1.2.1.4.-X	1-48	10 USC 2304(j)	New requirements for contracts with delivery or task orders	Amend/ delete
1.2.2.4.-I	1-68	10 USC 2305(b)	Debriefing requirements - unsuccessful offerors	Amend
1.2.2.4.-II	1-69	10 USC 2305(b)	Establish protest file	Amend
1.2.2.4.-III	1-69	10 USC 2305(b)	Agency authority to pay expenses - meritorious protests	Amend
1.2.2.4.-IV	1-69	10 USC 2305(a)	Change "small purchases" to "purchases below the simplified acquisition threshold"	Amend
1.2.2.4.-V	1-70	10 USC 2305(a)	Limit evaluation of prices for options, sealed bid procedures	Amend/ consolidate
1.2.3.4.-I	1-80	10 USC 2306(c)	Cost contract approval not necessary	Delete

**Appendix IV  
Analysis of Acquisition Law Advisory Panel  
Recommendations**

GAO assessments of Panel's recommendations				Recommendation implications		
Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
X				X		
X				X		
		X		X		
	X				X	
X						X
X						X
		X				X
X					X	
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	X				X	
	X				X	
X					X	
	X				X	
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X						X
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**Appendix IV  
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Recommendations**

<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
1.2.3.4.-II	1-81	10 USC 2306(d)	No 6% fee limit for architectural and engineering services	Amend/delete
1.2.3.4.-III	1-81	10 USC 2306(e)	Change "small purchase threshold" to "simplified acquisition threshold"	Amend
1.2.3.4.-IV	1-81	10 USC 2306(f)	Delete reference to 10 USC 2306a	Delete
1.2.4.4.	1-89	10 USC 2317	Personnel appraisals recognize efforts to increase competition	Repeal
1.2.5.4.-II	1-92	10 USC 2318(c)	Discontinue competition advocate report to Congress	Amend/repeal
1.2.7.4.-I	1-100	10 USC 2325	Product descriptions promote use of commercial and nondevelopmental items	Amend
1.2.7.4.-II	1-100	10 USC 2325(b) & (c)	Delete directed implementation	Delete
1.2.7.4.-III	1-100	10 USC 2325(d)	Move nondevelopmental item definition to 10 USC 2302	Consolidate
1.2.8.4.	1-104	40 USC 541(3)	Scope of Brooks Architect-Engineers Act - definition of architectural and engineering services	Amend
1.2.9.4.-I	1-109	41 USC 416	Change "small purchase threshold" to "simplified acquisition threshold"	Amend
1.2.9.4.-II	1-109	41 USC 416(a)	Uniform DOD and civilian agency notice thresholds	Amend
1.2.9.4.-III	1-109	41 USC 416	Congress consider alternative notice publication methods above threshold	Other (general recommendation)
1.2.9.4.-IV	1-110	41 USC 416(a) & (e)	Regulations to ensure sufficient notice under threshold and allow automated means (e.g., electronic bulletin boards)	Amend
1.2.9.4.-V	1-110	41 USC 416(a)	Require, to the maximum extent practicable, automated transmission for Commerce Business Daily procurement notice	Amend
1.2.9.4.-VI	1-111	41 USC 416(a)	Exempt commercial items from deadlines for submission of offers	Amend
1.2.11.4.	1-121	41 USC 419	Annual report on agency's use of competition no longer required	Delete
1.3.1.4.-I	1-134	10 USC 2306a	Truth in Negotiations Act (TINA) threshold stays at \$500,000	Amend
1.3.1.4.-II	1-135	10 USC 2306a(b)	Cost or pricing data - services sold to public exempt	Amend
1.3.1.4.-III	1-136	10 USC 2306a(b)	Contract modifications for commercial items exempt from TINA	Amend
1.3.1.4.-IV	1-137	10 USC 2306a(b)	Expand and clarify exception for adequate price competition	Amend
1.3.1.4.-V	1-140	10 USC 2306a(d) & (g)	Timeliness of cost or pricing data	Amend

**Appendix IV  
Analysis of Acquisition Law Advisory Panel  
Recommendations**

GAO assessments of Panel's recommendations				Recommendation implications		
Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
		X			X	
		X		X		
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Recommendations**

<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
1.3.1.4.-VI	1-140	10 USC 2306a(f)	Delete detailed audit rights and refer to 10 USC 2313	Amend
1.4.5.4.-I	1-164	10 USC 2356(a)	Permit secretary of military department to delegate authorities	Amend
1.4.5.4.-II	1-164	10 USC 2356(a)	Delete reference to 10 USC 2355	Delete
1.4.5.4.-III	1-164	10 USC 2356(b)	Delete further delegation of power to negotiate/administer research and development contracts	Delete
1.4.6.4.-I	1-168	10 USC 2358(a)	Add authority for advanced research	Amend
1.4.6.4.-II	1-168	10 USC 2358(a)	Eliminate approval by the President	Amend
1.4.6.4.-III	1-168	10 USC 2358(a)	Add use of cooperative agreements or other transactions for research and development projects	Amend
1.4.6.4.-IV	1-168	10 USC 2358	Research and development projects - service secretary authority	Amend
1.4.6.4.-V	1-170	10 USC 2358(b)	Research and development projects - expanding range of projects available	Amend
1.4.8.4.	1-176	10 USC 2361(c)	Delete report to Congress on research and development awards to colleges and universities	Delete
1.4.9.4.	1-180	10 USC 2364	Change milestone 0, I, and II decisions to "acquisition program decisions"	Amend
1.4.13.4.	1-190	10 USC 2371	Cooperative agreements and other transactions	Amend
1.4.15.4.	1-195	10 USC 4503	Research and development programs - Army authority	Repeal
1.4.17.4.	1-199	10 USC 7522(b)	Merge payments section into 10 USC 2307	Repeal/ consolidate
1.4.18.4.	1-201	10 USC 9503	Research and development programs - Air Force authority	Repeal
1.5.4.4.-I	1-231	31 USC 3553	Protests: use of "calendar days"	Amend
1.5.4.4.-II	1-231	31 USC 3553	Protests: suspension of contract performance	Amend
1.5.4.4.-III	1-233	31 USC 3553 & 3554	Protests: change "procuring activity" to "contracting activity"	Amend
1.5.4.4.-IV	1-234	31 USC 3553	Protests: Comptroller General authority to issue protective orders	Amend
1.5.5.4.-I	1-240	31 USC 3554	Protests: express option - expand from 45 to 65 calendar days	Amend
1.5.5.4.-II	1-242	31 USC 3554	Amended protests: shorter time to resolve	Amend
1.5.5.4.-III	1-243	31 USC 3554	Frivolous protests: party pay government costs	Amend
1.5.5.4.-IV	1-247	31 USC 3554	Protests: allow payment of consultant/expert witness fees	Amend
1.5.6.4.-I	1-252	31 USC 3555	Protest regulations: computing time periods	Amend

**Appendix IV  
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Recommendations**

GAO assessments of Panel's recommendations				Recommendation implications		
Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
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**Appendix IV  
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<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
1.5.6.4.-II	1-252	31 USC 3555	Protest regulations: frivolous protests' costs	Amend
1.5.6.4.-III	1-252	31 USC 3555	Protest regulations: electronic filing	Amend
1.5.7.4.	1-255	31 USC 3556	Protests: jurisdiction for filing - delete district court	Amend
1.5.8.4.-I	1-261	28 USC 1491	Protests: change jurisdiction of federal courts	Amend
1.5.8.4.-II	1-261	28 USC 1491	Protests: Court of Federal Claims single forum	Amend
1.5.8.4.-III	1-265	28 USC 1491	Protests: Court of Federal Claims jurisdiction	Amend
1.5.9.4.-I	1-272	40 USC 759	Brooks Act (protests): use of "calendar days"	Amend
1.5.9.4.-II	1-272	40 USC 759	Brooks Act (protests): suspension of contract performance	Amend
1.5.9.4.-III	1-273	40 USC 759	Brooks Act: timely resolution of amended protests	Amend
1.5.9.4.-IV	1-273	40 USC 759	Brooks Act (protests): electronic filing	Amend
1.5.9.4.-V	1-274	40 USC 759	Brooks Act: frivolous protests' costs	Amend
1.5.9.4.-VI	1-275	40 USC 759	Brooks Act (protests): allow payment of consultant/expert witness fees	Amend
1.6.1.4.-I	1-288	10 USC 2308	Move delegation of procurement functions to 10 USC 2311	Repeal/ consolidate
1.6.1.4.-II	1-289	10 USC 2308 & 2311	Authority to delegate and assign	Amend
1.6.1.4.-III	1-289	10 USC 2308 & 2311	Limitation on authority to delegate	Amend
1.6.2.4.-I	1-295	10 USC 2310(a)	Agency head determinations and decisions	Amend
1.6.2.4.-II	1-297	10 USC 2310(b)	Written findings	Delete
1.6.4.4.-I	1-305	10 USC 2326(b)	Unfinalized contract - limitations on funds obligated	Amend
1.6.4.4.-II	1-306	10 USC 2326(b)	Unfinalized contract - allow waiver of 50%/75% limitations	Amend
1.6.4.4.-III	1-306	10 USC 2326(g)	Change "small purchase threshold" to "simplified acquisition threshold"	Amend
1.6.5.4.	1-311	10 USC 2329	Payment for production special tooling/test equipment	Repeal
1.6.6.4.-II	1-315	10 USC 2331(c)	Move waiver of task order limitation to 2304(j)(4) or replace	Consolidate or repeal
1.6.6.4.-III	1-315	10 USC 2331(c)	Waiver of task order limitation only effective 60 days after notice of waiver published in Federal Register	Delete
1.6.7.4.	1-320	10 USC 2381(a)	Add Secretary of Defense authority to prescribe regulations for bids	Amend
1.6.8.4.	1-324	10 USC 2384(b)	Commercial items exempt from identification of sources	Amend

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GAO assessments of Panel's recommendations				Recommendation implications		
Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
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<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
1.6.12.4.	1-333	P.L. 101-189, sec. 821	Regulations revised to no longer exempt foreign suppliers from executing a Certificate of Independent Price Determination	Repeal
2.1.1.4.	2-12	10 USC 2307	Change "advance payments" to "contract financing" and merge	Amend/ consolidate
2.1.2.4.	2-18	10 USC 2355	Vouchering procedures for research and development contracts	Repeal
2.1.3.4.	2-20	10 USC 7312	Rate of progress payments on naval ship contracts	Repeal/ consolidate
2.1.4.4.	2-22	10 USC 7364	Advance funds for Navy salvage operations	Repeal/ consolidate
2.1.5.4.	2-25	10 USC 7521	Secretary of the Navy authority to make progress payments	Repeal/ consolidate
2.1.8.4.	2-35	31 USC 3901-3907	Extend Prompt Payment Act discount period (31 USC 3904)	Amend
2.2.1.4.	2-48	10 USC 2324	Define allowable costs, repeal cost principles, and refer to regulations	Amend
2.2.2.4.	2-63	10 USC 2382	Authority for regulations to control excessive profits during war or national emergency	Repeal
2.2.3.4.	2-67	41 USC 420	Limits on reimbursement of contractor travel expenses	Repeal
2.3.1.4.	2-74	5 USC App. 3, sec. 9	Transfer of auditing and investigating authority to appropriate Office of Inspector General	Repeal
2.3.2.4.	2-81	10 USC 2313	Combine 10 USC 2313, 10 USC 2306a(f), and regulations into one audit statute	Amend
2.3.3.4.	2-86	10 USC 2406	Audit authority for access to contractor's cost and pricing data	Repeal
2.4.1.4.	2-94	10 USC 2410b	Regulations regarding standards for contractor inventory accounting	Repeal
2.4.3.3.	2-101	P.L. 91-379, sec. 103	Establish first Cost Accounting Standards Board	Delete
2.5.2.4.	2-109	10 USC 2383	Aircraft and ship spare parts; quality control	Repeal
2.5.3.4.	2-117	10 USC 2403	Contractor guarantees on major weapon systems	Repeal or amend
2.5.4.4.	2-122	10 USC 4534	Delivery of Army subsistence supplies at specified place	Repeal
2.5.5.4.	2-124	10 USC 9534	Delivery of Air Force subsistence supplies at specified place	Repeal
2.5.8.4.	2-131	41 USC 15	Prohibit set-off of assignor's liability against payments made to assignee	Amend
2.5.9.4.	2-136	41 USC 20	Deposit of contracts in the General Accounting Office	Repeal

**Appendix IV  
Analysis of Acquisition Law Advisory Panel  
Recommendations**

GAO assessments of Panel's recommendations				Recommendation implications		
Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
X				X		
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<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
2.5.10.4.	2-137	41 USC 417	Record requirements: change "small purchases" to "simplified acquisitions"	Amend
2.6.2.4.	2-155	10 USC 2405	Shipbuilding contract claims: certification requirement	Amend
2.6.3.4.	2-161	10 USC 2410	Certification of contract claims exceeding \$100,000	Repeal
2.6.4.4.	2-167	28 USC 1346(a)	Actions under Contract Disputes Act exempt from district court jurisdiction	Amend
2.6.7.4.-I	2-184	41 USC 609(a)	Shorten time limit for contractor appeal to the Claims Court from 1 year to 90 days	Amend
2.6.7.4.-II	2-184	41 USC 605	Contracting officer decision and contractor certification: raise threshold to \$100,000	Amend
2.6.7.4.-III	2-185	41 USC 605(a)	Include 6-year statute of limitations in Contract Disputes Act	Amend
2.6.7.4.-IV	2-185	41 USC 608(a)	Raise small claims appeals maximum amount to \$25,000	Amend
2.7.1.4.-I	2-197	50 USC 1431-1435 (P.L.85-804)	Limitation on extraordinary contractual relief (50 USC 1435)	Repeal
3.1.3.4.	3-22	10 USC 2432	Requirements for Selected Acquisition Reports	Amend/ consolidate
3.1.4.4.	3-36	10 USC 2433	Incorporate unit cost reporting into Selected Acquisition Reports	Repeal/ consolidate
3.1.5.4.	3-46	10 USC 2434	Requirements for independent cost estimates and manpower estimates	Amend
3.1.6.4.	3-52	10 USC 2435	Details concerning baseline content and reviews - major defense acquisition programs	Amend
3.1.7.4.	3-59	10 USC 2436 & 2437	Authority to designate Defense Enterprise Programs	Repeal
3.1.8.4.	3-62	10 USC 2438	Competitive prototyping of major weapon systems and subsystems	Repeal
3.1.9.4.	3-66	10 USC 2439	Competitive alternative sources for systems and subsystems	Repeal
3.1.10.4.	3-68	PL 101-510, sec. 809	Delete reference to Defense Enterprise Programs	Amend
3.2.0.1.	3-77	10 USC 2XXX	Streamlined testing statute	Consolidate
3.2.1.4.	3-82	10 USC 2362	Testing requirements for wheeled or tracked vehicles	Repeal
3.2.2.4.-I	3-87	10 USC 2366(e)	Eliminate requirement for full-up live-fire testing	Repeal or amend
3.2.2.4.-II	3-88	10 USC 2366(c)	Extend authority to waive live-fire testing	Repeal or amend
3.2.2.4.-III	3-89	10 USC 2366	Substitute the term "vulnerability" for "survivability"	Repeal or amend
3.2.3.4.-I	3-97	10 USC 2399(b)	Permit modification of mandatory initial operational test and evaluation	Repeal or amend

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GAO assessments of Panel's recommendations				Recommendation implications		
Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
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<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
3.2.3.4.-II	3-97	10 USC 2399(d)	Permit greater system contractor role to support operational test and evaluation	Repeal or amend
3.2.3.4.-III	3-98	10 USC 2399(e)	Permit greater support/nonsystem contractor role in operational test and evaluation	Repeal or amend
3.2.4.4.	3-104	10 USC 2400	Low-rate initial production of new systems	Amend
3.3.1.4.	3-110	10 USC 4501 & 9501	Industrial mobilization - ordering products	Consolidate
3.3.2.4.	3-114	10 USC 4502 & 9502	Industrial mobilization - list of facilities	Consolidate
3.3.3.4.	3-118	10 USC 4504 & 9504	Allow noncompetitive purchases for experimental purposes	Consolidate
3.3.4.4.	3-119	10 USC 4505 & 9505	Procurement of production equipment	Repeal
3.3.5.4.	3-124	10 USC 4506/9506, 4507/9507, & 4508	Sale, loan, or gift of samples, drawings, and information to contractors; ordnance to designers; use of testing equipment	Amend/ consolidate
3.3.6.4.	3-127	10 USC 4531 & 9531	Purchase materials, facilities, and listed equipment	Repeal
3.3.7.4.	3-129	10 USC 4533	Authority to buy Army rations	Repeal
3.3.8.4	3-132	10 USC 4535 & 9535	Purchase exceptional supplies without advertising	Repeal
3.3.9.4.	3-133	10 USC 4537 & 9537	Authority to secure assistance of U.S. mapping agencies	Repeal
3.3.10.4.	3-135	10 USC 4538 & 9538	Authority to reclaim or exchange unserviceable ammunition	Repeal
3.3.11.4.-I	3-145	10 USC 4540, 9540, & 7212	No 6% fee limit for architectural and engineering services	Repeal
3.3.11.4.-II	3-146	10 USC 2306(d) & 41 USC 254(b)	No 6% fee limit for architectural and engineering services	Amend/ delete
3.3.11.4.-III	3-147	10 USC 2855	Authority to purchase architectural and engineering services extends to civil works	Amend
3.3.12.4.	3-149	10 USC 4541 & 9541	Authority to accept reserve officers' gratuitous services	Consolidate
3.3.13.4.	3-153	10 USC 9511, 9512, & 9513	Authority to contract - Civil Reserve Air Fleet	Amend/ consolidate
3.3.14.4.	3-159	10 USC 7201	Navy authority for research and development and procurement of guided missiles	Repeal
3.3.15.4.	3-162	10 USC 7203	Authority for international exchange of scientific personnel	Amend
3.3.16.4.	3-163	10 USC 7213	Use of public works construction funds for enemy action losses	Repeal
3.3.18.4.	3-169	10 USC 7230	Navy authority to sell degaussing equipment	Repeal
3.3.19.4.	3-172	10 USC 7296	Interchange of funds appropriated for vessel construction or conversion	Repeal

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Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
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<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
3.3.20.4.	3-173	10 USC 7298	Authority to convert naval vessels	Repeal
3.3.21.4.	3-177	10 USC 7299a	Assignment of vessel projects - considerations (10 USC 7299a(a) & (b))	Repeal
3.3.22.4.	3-179	10 USC 7301	Requirement to submit estimates with naval construction bids	Repeal
3.3.23.4.	3-181	10 USC 7302	Construct vessels to maintain Pacific coast shipyards	Repeal
3.3.24.4.	3-183	10 USC 7304	Authority to strike vessels from Naval Vessel Register	Consolidate
3.3.25.4.	3-187	10 USC 7305	Authority to dispose of stricken naval vessels	Amend/ consolidate
3.3.26.4.	3-191	10 USC 7306	Authority to use stricken vessels for experimental purposes	Consolidate
3.3.27.4.	3-197	10 USC 7307	Restrictions on disposal of naval vessels	Amend/ consolidate
3.3.28.4.	3-200	10 USC 7308	Transfer or gift of obsolete, condemned, or captured naval vessels	Consolidate
3.3.29.4.	3-204	10 USC 7310	Policy for construction and deployment of naval systems	Repeal
3.3.32.4.	3-212	10 USC 7361-7367	Authority for naval salvage operations	Consolidate
3.5.1.4.	3-245	10 USC 2461	Conversion from Department of Defense to contractor performance	Amend/ consolidate
3.5.2.4.	3-252	10 USC 2462	Contracting out when cost is lower	Amend/ consolidate
3.5.3.4.	3-258	10 USC 2463	Cost data on performing a commercial function by contractor employees or Department of Defense employees	Repeal
3.5.4.4.	3-261	10 USC 2464	Secretary of Defense authority to establish core logistics requirements	Amend
3.5.5.4.	3-266	10 USC 2465	Prohibition on firefighting or security guard contracts	Repeal
3.5.6.4.	3-272	10 USC 2466	Limitations on contracting out depot maintenance	Repeal
3.5.7.4.	3-276	10 USC 2467	Requirements for Department of Defense cost comparisons made under Circular A-76	Amend/ consolidate
3.5.8.4.	3-282	10 USC 2468	Base commander authority over contracting for commercial activities	Repeal
3.5.9.4.	3-285	10 USC 4532 & 9532	Authority to manufacture supplies in government-owned facilities	Amend/ consolidate
3.5.10.4.	3-290	10 USC 2212	Contracted advisory and assistance services - accounting procedures	Repeal
3.7.1.4.-I	3-306	10 USC 2388(a)	Authority to contract for storage of liquid fuels or natural gas	Amend

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Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
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<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
3.7.1.4.-II	3-306	10 USC 2388(b)	Restrictions regarding protection of petroleum facilities	Repeal
3.7.5.4.	3-316	10 USC 2404	Add authority to sell petroleum in inventory	Amend
3.8.16.4.	3-377	31 USC 1552(a)	Fixed appropriation - availability for obligation	Amend
3.9.1.4.-I	3-383	10 USC 2202(a)	Authority to issue acquisition regulations	Amend
3.9.1.4.-II	3-383	10 USC 2202(b)	Department of Defense funds available for obligation for a three year period	Repeal
3.9.2.4.	3-387	10 USC 2271-2279 (Chapter 135)	Procedures for aviation procurement	Repeal
3.9.4.4.	3-392	10 USC 2369	Product evaluation activity	Repeal
3.9.5.4.	3-394	10 USC 2384a	Economic order quantity for supplies	Repeal
3.9.6.4.	3-396	10 USC 2385	Add heavy wheeled vehicles/trailers as tax-exempt item	Amend
3.9.8.4.	3-400	10 USC 2389	Authority to adjust prices in milk contracts	Repeal
3.9.10.4.	3-407	10 USC 2402	Prohibit contractor limit on subcontractor sales to the government	Amend
3.9.16.4	3-420	P.L. 101-165, sec. 9081	Prohibit contracts with terms of 18 months or more to lease assets	Repeal
4.0.-IV	4-3	10 USC 2XXX	Congress should consider enacting one Department of Defense socioeconomic/small business statute	Other (new chapter)
4.1.0.1.-I	4-10	41 USC 403(11)	Establish a simplified acquisition threshold at \$100,000 to replace the small purchase threshold at \$25,000	Amend
4.1.0.1.-II	4-12	Various statutes	Change threshold to \$100,000 or add threshold at \$100,000	Amend
4.1.0.1.-III	4-13	15 USC 644(j)	Change "small purchase" to "simplified acquisition" and reserve purchases under threshold for small business	Amend
4.1.0.1.-IV	4-14	41 USC 416	Procurement notice: raise threshold for synopsis in Commerce Business Daily and allow use of automation	Amend
4.1.0.3.1.-I	4-16	41 USC 403(11)	"Simplified acquisition threshold" means \$100,000; adjust every 5 years	Amend
4.1.0.3.1.-II	4-16	10 USC 2302(7)	Replace definition of "small purchase threshold" with reference to definition of "simplified acquisition threshold" in 41 USC 403(11)	Amend
4.1.0.3.2.	4-16	10 USC 2304(g)	Authority for simplified procedures when under threshold	Amend
4.1.0.3.3.-I	4-16	41 USC 416	Procurement notice: single provision in Office of Federal Procurement Policy (OFPP) Act	Amend/ consolidate
4.1.0.3.3.-II	4-16	15 USC 637(e)-637(g)	Procurement notice: refer to solicitation requirements in 41 USC 416	Repeal/ replace

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4.1.0.4	4-18	15 USC 644 (j)	Extend reservation for small business - may allocate for small disadvantaged business	Amend
4.1.0.5.	4-19	41 USC 424	Exempt from laws and clauses when under threshold	Other (new section)
4.1.0.6	4-22	41 USC 417	Conform requirement for reporting contract actions to simplified acquisition threshold	Amend
4.2.1.4.	4-29	10 USC 7299	Naval vessel contracts not subject to Walsh-Healey, Davis-Bacon, or Service Contract Acts	Amend
4.2.3.4.	4-33	19 USC 2516	Labor surplus area studies - one-time reporting requirement	Delete
4.2.5.4.	4-38	29 USC 793	Employ handicapped individuals: change threshold to simplified acquisition threshold and exempt commercial items	Amend
4.2.6.4.	4-41	38 USC 4212	Disabled and Vietnam veterans: change threshold to simplified acquisition threshold and exempt commercial items	Amend
4.2.7.4.	4-46	40 USC 270a et seq.	Miller Act (construction bonding): exempt when under simplified acquisition threshold	Amend
4.2.8.4.-I	4-52	40 USC 276a et seq.	Davis-Bacon Act (construction wages): change threshold to simplified acquisition threshold	Amend
4.2.8.4.-II	4-53	40 USC 276a et seq.	Davis-Bacon Act (construction wages): timing for submission of payroll data	Amend
4.2.8.4.-III	4-53	40 USC 276a et seq.	Davis-Bacon Act (construction wages): change Department of Labor regulations - annual wage scale covering all trades	Other (regulations)
4.2.9.4.	4-62	41 USC 35-45	Walsh-Healey Act (manufacturer or regular dealer) labor protections	Repeal/ replace
4.2.11.4.	4-67	41 USC 258	Walsh-Healey and Davis-Bacon Acts: enforce uniform applicability to contracts	Repeal
4.2.12.4.	4-72	41 USC 351-358	Service Contract Act: change threshold to simplified acquisition threshold and exempt commercial items	Amend
4.2.13.4.	4-76	41 USC 701	Drug-free workplace: change threshold to simplified acquisition threshold	Amend
4.3.1.4.	4-85	10 USC 2322	Expired provision: limit small business set-aside on foreign military sales	Delete
4.3.4.4.-I	4-109	15 USC 631 et seq.	Replace patchwork of small business laws with comprehensive program	Other (general recommendation)
4.3.4.4.-II	4-109	15 USC 631 et seq.	Congress look at ways to help small business and small minority business	Other (general recommendation)
4.3.4.4.-III	4-110	15 USC 631 et seq.	Secretary of Defense consider appointing Department of Defense Advisory Committee on Small Business	Other (general recommendation)

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Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
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4.3.4.6.1.-I	4-111	15 USC 637(a)	Permit direct award of contract to 8(a) small business	Amend
4.3.4.6.1.-II	4-112	15 USC 637(d)	Change "small purchase threshold" to "simplified acquisition threshold"	Amend
4.3.4.6.1.-III	4-112	15 USC 637(e)	Replace with reference to notice requirements in OFPP Act (41 USC 416)	Repeal/ replace
4.3.4.6.1.-IV	4-112	15 USC 637(f) & (g)	Delete procurement notice requirements in Small Business Act	Delete
4.3.4.6.1.-V	4-112	15 USC 644(j)	Change "small purchase" to "simplified acquisition" and extend reservation for small business	Amend
4.3.4.6.2.	4-114	P.L. 102-484, sec. 804	Modified procedures for Certificate of Competency - Department of Defense only	Repeal or amend
4.5.1.4.	4-135	10 USC 7341	Authorization to construct and maintain naval airplanes including lighter-than-air craft	Repeal
4.5.2.4.	4-137	10 USC 7342	Manufacture 10% of Navy aircraft and aircraft engines in government plants	Repeal
4.5.3.4.	4-139	10 USC 7343	Authority to manufacture naval aircraft at government facilities	Repeal
4.5.4.4.	4-141	10 USC 7345	Required annual report on Navy aircraft requirements	Repeal
5.1.1.4.-I	5-24	41 USC 403	Define technical data to include computer manuals and data bases; exclude programs	Amend
5.1.1.4.-II	5-24	10 USC 2320 & 2321	Applicability of law, rights, and restrictions regarding technical data	Amend
5.1.1.4.-III	5-25	10 USC 2320(a)	Government rights to technical data for commercial items	Amend
5.1.1.4.-IV	5-25	10 USC 2320(a)	Secretary of Defense may agree to internal government use of technical data - restricted otherwise	Amend
5.2.1.4.-I	5-47	15 USC 3710a	Government may copyright computer programs developed under or related to a cooperative research and development agreement	Amend
5.2.1.4.-II	5-47	15 USC 3710a	Establish procedures for securing copyright, licensing, and sharing royalties with employees	Amend
5.2.1.4.-III	5-49	15 USC 3710a(b)	Permit government employees to commercialize inventions or copyrighted works	Amend
5.2.2.4.	5-59	10 USC 2363	Encouragement of technology transfer by the Department of Defense	Repeal
5.2.3.4.-I	5-63	35 USC 202(c)	Require contractors to disclose inventions prior to publication	Amend
5.2.3.4.-II-1	5-63	35 USC 202(c)	Require contractors to state election to retain title in the United States and abroad	Amend

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Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
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5.2.3.4.-II-2	5-63	35 USC 202(c)	4 months instead of 60 days for federal agency to file for patent	Amend
5.2.3.4.-III	5-64	35 USC 202(c)	Time limit for contractor who elects to retain title to file patent application	Amend
5.3.1.4.-I	5-71	35 USC 181	Establish Department of Defense Patent and Trademark Technical Advisory Committee	Amend
5.3.1.4.-II	5-72	35 USC 155	Extend term of patent delayed by secrecy order	Amend
5.3.1.4.-III	5-72	35 USC 183	Compensate only for secrecy or government use delays longer than 5 years	Amend
5.3.2.4.	5-84	22 USC 2761(e)	Recoupment of nonrecurring costs - defense sales	Repeal
5.4.1.4.-I	5-99	28 USC 1498	Secretary of Defense authority to prescribe when consent to use for government may be withheld	Amend
5.4.1.4.-II	5-99	35 USC 283	Prohibit injunctive relief for infringement to perform government contract	Amend
5.4.2.4.-I	5-104	10 USC 2386(3)	"Technical data and computer software" may be acquired	Amend
5.4.2.4.-II	5-105	10 USC 2386(4)	Acquiring release for unauthorized use of technical data or computer software	Amend
5.4.2.4.-III	5-105	10 USC 2386(4)	Settle patent infringement matters before or after suit is brought	Amend
5.4.3.4.	5-107	10 USC 7210	Navy authority to buy patents, patent applications, and licenses	Repeal
6.1.4.-I	6-37	31 USC 3730(e)	No qui tam suits based on information obtained in federal government employment	Amend
6.1.4.-II	6-38	31 USC 3730(e)	No actions based on federal government investigation unless direct, independent source	Amend
6.1.4.-III	6-39	31 USC 3730(e)	No qui tam suits based on contractor's voluntary disclosure	Amend
6.1.4.-IV	6-39	31 USC 3730(d)	Reduced or no compensation to culpable qui tam relator (person who brings an action)	Amend
6.1.4.-V	6-40	41 USC 605(c)	Contract Disputes Act: permit disputes to be processed in the absence of contracting officer's final decision	Amend
6.1.4.-VI	6-41	41 USC 607 & 606	Contract Disputes Act: permit (1) transfer to Claims Court and (2) counterclaims in district courts	Amend
6.1.4.-VII	6-43	31 USC 3729(a)	False Claims Act: avoid unreasonable penalties	Amend
6.5.6.4.	6-79	41 USC 423	Prohibition on gratuities during conduct of a procurement	Repeal
6.6.2.4.	6-93	10 USC 2397a	Requirements to report contacts regarding future employment	Repeal

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GAO assessments of Panel's recommendations				Recommendation implications		
Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
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6.6.3.4.	6-97	41 USC 423	Prohibition on employment discussions during conduct of a procurement	Repeal
6.7.1.4.	6-106	18 USC 207	1-year restriction on use of procurement information after leaving government	Amend
6.7.2.4.	6-110	18 USC 281	2-year restrictions on retired military officers	Repeal
6.7.3.4.	6-113	37 USC 801	3-year restriction on payment to retired regular officer	Repeal
6.7.4.4.	6-116	10 USC 2397	2-year requirement for reports - former Department of Defense employees working for defense contractor	Repeal
6.7.5.4.	6-119	10 USC 2397b	2-year restriction on former Department of Defense procurement officials	Repeal
6.7.6.4.	6-122	10 USC 2397c	Mandated contractual provision restricting compensation to former Department of Defense employees	Repeal
6.7.7.4.	6-125	41 USC 423(f)	Restrictions on procurement officials who leave government	Repeal
6.8.2.4.	6-136	41 USC 423	Prohibitions on disclosure of proprietary or source selection information	Repeal/replace
6.9.1.4.	6-147	41 USC 423	Certifications concerning procurement integrity	Repeal
6.9.2.4.	6-150	41 USC 423	Contractual, administrative, and criminal penalties for violations of procurement integrity	Repeal
6.9.3.4.	6-154	41 USC 423	Advice on applicable provisions, ethics training	Repeal
6.10.2.4.-I	6-163	41 USC 403	Substitute the term "simplified acquisition threshold" for "small purchase threshold" and set the threshold at \$100,000 instead of \$25,000; adjust every 5 years (sec. 4(11))	Amend
6.10.2.4.-II	6-163	41 USC 403	Define "technical data" to include computer manuals and data bases, not programs (sec. 4(8))	Amend
6.10.14.4.	6-189	41 USC 415	One-time reports on competition in subcontracts	Delete
6.11.3.4.	6-203	31 USC 1352	"Byrd Amendment" prohibits use of appropriated funds for influence; requires lobbying reports	Repeal
6.11.4.4.	6-206	10 USC 2408	5-year restriction on convicted individuals to work on defense contracts	Repeal
6.11.5.4.	6-207	10 USC 2409a	Prohibit defense contractor retaliation against employees who disclose violations to government	Repeal
7.0.5.-I	7-11	10 USC 2X10-2X15	Purchases of foreign goods by the Department of Defense	Other (new subchapter)
7.0.5.-II	7-11	10 USC 2X20-2X34	Defense international and cooperative agreements	Other (new subchapter)

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GAO assessments of Panel's recommendations				Recommendation implications		
Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
	X			X		
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<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
7.0.5.-III	7-12	10 USC 2X50-2X70	Acquisition, cross-servicing agreements, and standardization of equipment	Other (new subchapter)
7.1.1.4.-I	7-28	41 USC 10a & 10b	American materials mined, produced, manufactured, or substantially transformed in the United States	Amend
7.1.1.4.-II	7-29	41 USC 10b	Procedure to debar contractor who fails to comply	Amend/delete
7.1.1.4.-III	7-29	41 USC 10c	Refer to definition of "substantially transformed" in 19 USC 2518(4)(B)	Amend
7.1.1.4.-V	7-30	Six authorization & appropriation acts <sup>a</sup>	Domestic source restrictions and product preferences	Repeal
7.1.1.4.-VI	7-30	41 USC 10b-1 & b-2	Detailed procedures, considerations, one-time requirements	Amend/delete
7.1.2.4.-I	7-39	19 USC 2516	One-time requirement - labor surplus area studies	Delete
7.1.4.4.-I	7-44	10 USC 2506 (Renumbered 2533)	Considerations required for purchases of foreign goods	Amend/consolidate
7.1.4.4.-II	7-44	10 USC 2506 (Renumbered 2533)	Definitions: American goods or other than American goods	Amend/consolidate
7.1.5.4.	7-49	10 USC 2507 (Renumbered 2534)	Authorities and restrictions regarding American goods and services	Amend/consolidate
7.1.6.4.-I	7-60	10 USC 4542(d)	Technical data packages, large-caliber cannon - cooperative project agreements	Amend
7.1.6.4.-II	7-61	10 USC 4542	Technical data packages, large-caliber cannon - assist foreign country	Consolidate
7.1.7.4.	7-66	10 USC 7309	Restrictions on construction or repair of vessels in foreign shipyards	Consolidate
7.1.8.4.-I	7-70	10 USC 2631	Exempt commercial items and simplified acquisitions from cargo preference restrictions	Amend
7.1.8.4.-II	7-70	46 USC App. 1241	Exempt commercial items and simplified acquisitions from cargo preference restrictions	Amend
7.1.9.4.	7-71	10 USC 2327	Requirement to disclose foreign government ownership or control	Repeal
7.2.1.4.-I	7-82	10 USC 2504 (Renumbered 2531)	Scope of international agreements includes memoranda of understanding	Amend/consolidate
7.2.1.4.-II	7-82	10 USC 2504 (Renumbered 2531)	Agreements related to research and development, production, logistics support, or reciprocal procurement	Amend/consolidate
7.2.2.4.	7-86	10 USC 2505 (Renumbered 2532)	Contractual offset arrangements - sales to a foreign country or firm	Consolidate
7.2.3.4.-I	7-91	10 USC 2350a	Authority for cooperative projects not limited to research and development projects	Amend

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Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
	X					X
	X			X		
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<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
7.2.3.4.-II	7-91	10 USC 2350a(d)	Restrictions and authorities for cooperative projects	Amend
7.2.3.4.-III	7-92	10 USC 2350a	Authority to engage in cooperative projects	Consolidate
7.2.3.4.-IV	7-93	10 USC 2350a(i)	Definitions: major ally of the United States; major non-NATO (North Atlantic Treaty Organization) ally	Consolidate
7.2.4.4.-I	7-100	10 USC 2350b	Delete reference to section 27(d) of the Arms Export Control Act	Amend
7.2.4.4.-II	7-101	10 USC 2350b	Authority to engage in cooperative projects	Consolidate
7.2.5.4.-I	7-107	10 USC 2350i	Crediting and use of foreign contributions for cooperative projects	Consolidate
7.2.5.4.-II	7-108	10 USC 2350i(c)	Definitions: cooperative project; defense article; defense service	Consolidate
7.2.6.4.	7-110	10 USC 2350c	Authority to enter into cooperative military airlift agreements	Consolidate
7.2.7.4.-I	7-114	10 USC 2350d	Cooperative logistic support agreements: NATO countries	Amend/ consolidate
7.2.8.4.	7-118	10 USC 2350e	NATO Airborne Warning and Control System (AWACS) program	Consolidate
7.2.9.4.	7-122	10 USC 2350h	Department of Defense ombudsman for foreign governments on acquisition issues	Repeal
7.2.10.4.	7-123	10 USC 7344	Authority for President to suspend naval aircraft construction	Repeal
7.3.1.4.-I	7-141	10 USC 2341, 2344, 2345, 2346, 2348	Acquisition and cross-servicing agreements	Consolidate
7.3.1.4.-II	7-141	10 USC 2342(a)	Authority to enter into cross-servicing agreements	Amend/ consolidate
7.3.1.4.-III	7-142	10 USC 2343	Law applicable to acquisition and cross-servicing agreements	Amend/ consolidate
7.3.1.4.-IV	7-143	10 USC 2347 & 2350	Provide coverage for "contingency operations" (defined in 10 USC 101(47))	Amend/ consolidate
7.3.2.4.-I	7-148	10 USC 2350f(a)	Authority to furnish and receive reciprocal communications support	Amend/ consolidate
7.3.2.4.-II	7-148	10 USC 2350f(d)	Definitions: allied country; allied international organization	Consolidate
7.3.3.4	7-152	10 USC 2350g	Authority to accept direct payment or contribution, use of real property, services, and supplies from foreign countries	Amend/ consolidate
7.3.4.4.	7-156	10 USC 2457	Standardization of equipment with NATO members	Consolidate
8.3.1.	8-17	10 USC 2302(5)	"Commercial item" includes property and support services	Amend

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Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
	X					X
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<b>Report citation</b>	<b>Page</b>	<b>Statute</b>	<b>Description</b>	<b>Type of change</b>
8.3.2.	8-24	10 USC 2301	Congressional defense procurement policy - add objectives	Amend
8.3.3.	8-24	10 USC 2325	Define requirements so commercial and nondevelopmental items may fill them and perform market research	Amend/ consolidate
8.3.4.	8-26	10 USC 2XX1	Regulations governing procurement of commercial and nondevelopmental items	Other (new section)
8.3.5.1.-I	8-30	10 USC 2XX3	Exempt procurements of commercial items from some laws	Other (new section)
8.3.5.1.-II	8-32	Various statutes	Barriers to purchase of commercial items	Amend/ repeal
8.3.5.2.	8-39	10 USC 2XX3	Rule of construction to prevent inadvertent amendment or repeal	Other (new section)
8.3.5.3.	8-40	10 USC 2XX3	Precedence of subchapter; Secretary of Defense authority to set aside contracts	Other (new section)
8.3.6.	8-41	10 USC 2XX4	Specific commercial item acquisition procedures and restrictions	Other (new section)
8.3.8.	8-43	10 USC 2XX5(a)	Determining price reasonableness of commercial item contracts	Other (new section)
8.3.9.	8-44	10 USC 2XX5(b)	Government's right to require pricing information (pricing documentation)	Other (new section)
8.3.10.	8-45	10 USC 2XX5(c)	Government's contractual remedy for inaccurate pricing documentation	Other (new section)
8.3.11.	8-46	10 USC 2XX5(d)	Government's right to audit pricing documentation within 1 year	Other (new section)

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GAO assessments of Panel's recommendations				Recommendation implications		
Noncontroversial	Substantive and/or differing views	Conforming	Uncertain	Governmentwide	Inconsistent	DOD only
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<sup>a</sup>For recommendation 7.1.1.4.-V one of the six acts, Section 723, P.L. 97-377, is categorized as governmentwide. The other five acts are categorized as DOD only.

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