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July 10, 2014

The Honorable Carl Levin
Chairman
Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510-6050

The Honorable James M. Inhofe
Ranking Member
Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510-6050

The Honorable Howard P. “Buck” McKeon
Chairman
House Committee on Armed Services
2120 Rayburn House Office Building
Washington, DC 20515-6035

The Honorable Adam Smith
Ranking Member
House Committee on Armed Services
2120 Rayburn House Office Building
Washington, DC 20515-6035

The Honorable Mac Thornberry
Vice Chairman
House Committee on Armed Services
2120 Rayburn House Office Building
Washington, DC 20515-6035

Dear Chairmen, Ranking Members, and Vice Chairman of the Committees on Armed Services:

On behalf of the National Defense Industrial Association (NDIA), a non-partisan, non-profit association of nearly 1,600 corporate members and 90,000 individual members, we thank the House and Senate Committees on Armed Services for requesting our views on how to improve the Defense Acquisition System. Since receiving your letter on March 31, NDIA has undertaken an in-depth and thorough process to respond to your request, and that process is still ongoing. We have sought to keep your professional staff members and acquisition leaders in the Department of Defense aware of our progress, and this letter provides a further update on the remaining steps, our anticipated timeline, and what we hope to deliver to your Committees.

We concur in the view expressed in your letter that the Weapons System Acquisition Reform Act (WSARA) of 2009 has made positive changes to the Defense Acquisition System, but room remains for further improvement. That improvement includes wringing unnecessary costs out of the Defense Acquisition System itself, expediting the delivery of capabilities, training and empowering our acquisition workforce to make intelligent purchasing decisions, emphasizing lifecycle cost considerations in the acquisition process, and improving oversight of acquisition decisions. In most cases, these improvements involve lessening the regulatory burden on our decision makers instead of forcing them to do their jobs by rote. While we cannot simply hope that good judgment will fill any void vacated by the rules, coupling a reduced

administrative burden with a better-educated acquisition workforce and improved oversight could meaningfully improve acquisition outcomes. To that end, this letter will describe the principles, approach, and anticipated deliverable meant to support your Committees' acquisition review.

Our Principles

To maintain the world's finest military, the Department of Defense needs three things: high quality people, realistic and constant training, and cutting-edge technology and support from industry. If we have the first two but not the last, we risk losing our ability to protect our national security interests around the world. Rapidly falling defense budgets underscore the need to achieve major reductions in the costs of what we acquire as well as the costs of acquisition processes and organizations themselves. Neither the current acquisition process nor its outcomes appear affordable in the long run.

Three basic principles should underpin our future efforts toward acquisition reform. First, acquisition decision-making should be based on evidence of strong performance and outcomes rather than on beliefs, opinions, or arbitrary preferences. Second, individual and organizational authority and accountability are better guarantors of performance than increasing compliance requirements. Third, process requirements should be matched with the resources available to properly implement them, particularly in the domains of human capital, performance measurement systems, and program funding.

Evidence-based decision making. Successful acquisition reform will require evidence-based decision-making. In the past, it was difficult to know exactly what outcomes resulted from acquisition strategies and behaviors in specific circumstances. Today we have analytical tools and "Big Data" capabilities to track and understand the real cost and savings drivers in the acquisition system on a systemic, scientific, and statistically-significant basis rather than by anecdote or even individual case study. If fully implemented, analytical tools can measure the value of different acquisition approaches across the federal enterprise. The Pentagon and Congress no longer need to guess at solutions to the problems of the Defense Acquisition System when both can measure the costs of particular practices compared to their outcomes in order to promote success and learn from failure. Because these emerging tools track, record, and analyze data continuously, continuous improvement of the acquisition process is now a possibility.

We must use emerging capabilities to analyze the performance of the acquisition system beyond major defense acquisition programs. These analyses should rely on data already collected and analysis already performed, or data collection and analysis capabilities already planned for incorporation in defense business systems. Further, the Department and Congress should use these tools to capture and weigh different approaches to complying with new overhead requirements and the cost of alternative approaches to audits and oversight. Not only will this data offer keen insight into the most efficient way to meet new requirements, it will enable better cost-benefit analyses of current and future legislation and regulation. The aggressive and systematic deployment of evidence-based analysis is the single greatest tool for overcoming institutional opposition to transformative change of the federal acquisition process.

Authority and accountability. Of all the acquisition reforms attempted by Congress and the Administration during the 1990s, arguably the least successful were those meant to transform the acquisition culture. Laws were enacted that sought to encourage and reward acquisition professionals for using innovative as opposed to rule-based approaches. For example, Congress created various pilot program authorities to allow agencies to experiment with innovative strategies in larger programs, but these either did not establish successful models for broader agency use, as in the case of the Defense Enterprise Programs that were intended to streamline the management of major defense acquisition programs, or were never used at all. Most of these authorities were later repealed.

Those reforms that did work focused on simplifying the acquisition process and thereby increasing individual and organizational authority and accountability for success or failure. Expanding acquisition professionals' authority to acquire commercial items has likely saved the government tens of billions of dollars at least and gave the Department of Defense and civilian agencies access to commercial technologies they could not afford to research and develop in-house. The simplified procedures for low-dollar procurements significantly reduced the paperwork burden. Many redundant, costly statutory requirements were eliminated.

Future acquisition reform efforts should advance these reforms. Congress should reaffirm and even expand commercial item preference, both as a way to maintain access to cutting-edge technology during a period of shrinking defense research and development and as a way to avoid substantial overhead and compliance costs. And the Congress should explicitly require the Service Chiefs to be responsible for linking and streamlining the requirements, acquisition, and budget processes within their Service and hold them accountable for the outcome. In addition, Congress should explicitly require greater involvement of the Service Chiefs in acquisition decisions, as well as the management of Service acquisition personnel.

Matching requirements to resources. As Congress passed the major acquisition reform legislation of the '90s, the Department of Defense cut the acquisition workforce quickly and drastically as part of the National Performance Review. For example, the acquisition workforce in the Department dropped from 460,516 in Fiscal Year 1990 to 230,556 in Fiscal Year 1999. While some reduction was certainly warranted, these reductions went too far and jettisoned too many of our seasoned professionals. Further, the laws did not reconfigure the workforce to effectively manage a process that significantly streamlined contract formation and administration, and needed correspondingly greater oversight of the requirements determination process to maximize competition and provide for effective contract management.

In the '90s, the theory behind workforce reform was that removing rules would cause judgment and discretion to fill the void. That theory did not play out in practice. Despite passionate cheerleading from the top, agencies did not develop or fund the education programs and opportunities needed to equip the workforce for the new acquisition model. Most of the oversight community still assessed performance in terms of compliance with rules and procedures, countermanding the emphasis on increased authority and accountability.

The lesson from the 1990s for our current efforts is that Congress and the Pentagon must fully fund the training and other workforce initiatives to transform the acquisition process. The

success of defense acquisition will always depend on the capability of a limited number of people inside and outside government whose resources of time and attention are finite. Increased skill, relevant experiences, and cultural adjustment of the workforce will occur only gradually and only with adequate funding and congressional oversight. In addition, the Congress should consider novel approaches to funding, such as creating a separate stable program funding account based on capital budgeting at Milestone A for each major program. The Department should budget for, and the Congress should fund, a management reserve in this account. Providing educated talent and secure program funding will almost certainly improve acquisition outcomes.

Our Approach

To realize these principles, NDIA's approach to reform involves two parallel processes. The first process adapts the findings of past studies of the Defense Acquisition System. In many cases, the proverbial wheel already exists: reports and studies have already identified the problems, and have done so with a high degree of consistency. Consolidating those problem statements, identifying their root causes, proposing solutions, and describing how those solutions will be enacted through law, regulation, or policy provides one set of inputs. In the second process, NDIA has engaged our members on a voluntary basis through working groups. No one can provide the views of industry better than industry, so these working groups will ensure that our response to your Committees is based on industry views.

Our final product will aim for clear, specific, actionable recommendations. We hope to provide a fully peer-reviewed response in late September. Anyone who might wish to do so can track our progress at <http://www.ndia.org/Advocacy/AcquisitionReformInitiative/Pages/default.aspx>, a website we update regularly with new products and background information.

We see this round of acquisition change less as sweeping reform and more as an early installment of long-term, continuous improvement. Lasting change will require prolonged effort and attention, and all parties must be prepared to accept criticism and reconsider policy approaches as the evidence dictates. There is reasonable hope that, with patience, collaboration, and the steady application of new information, fundamental change may result.

Prior studies. To comprehensively review past acquisition reform efforts, NDIA gathered studies dating back to the Hoover Commissions of 1949 and 1955, the Fitzhugh Commission, and the Grace Commission. While these older studies provide historical context, we concluded that the most applicable problem statements would come from more contemporary studies, beginning with the Packard Commission of 1986. Studies guiding our review include the 2006 Defense Acquisition Performance Assessment, the Report of the Acquisition Advisory Panel commissioned by the Services Acquisition Reform Act of 2003, and the Defense Business Board's 2012 Report on Linking and Streamlining the Defense Requirements, Acquisition, and Budget Processes, among others. We chose these studies because they represent the most authoritative and wide-ranging perspectives of acquisition reform. They reflect input from both the legislative and executive branches of government as well as the defense industry and broadly represent stakeholders' views.

The reports demonstrate a remarkable consistency in what they describe as the major problems of defense acquisition. Each report identified a number of challenges generally falling within one of the following twelve problem statements:

1. Coordination between the requirements, budget, and acquisition processes is inadequate.
2. Overly complex acquisition laws, regulations, and bureaucracy create unclear lines of authority and accountability.
3. The acquisition workforce is not sufficiently staffed, trained, or experienced.
4. The current acquisition system discourages an open and honest working relationship between government and industry.
5. The acquisition workforce is not empowered to make use of all available options when making acquisition decisions.
6. Congressional approval of defense budgets on year-to-year basis hinders long-term planning and execution of programs.
7. Acquisition processes have not adapted to new technologies and a changing national security environment.
8. Performance-based acquisition initiatives have not succeeded in shifting the focus from acquisition inputs to acquisition outcomes.
9. Contractors are reluctant to make long-term investments in defense contracts.
10. The oversight of acquisition inhibits improvements to the acquisition system.
11. The acquisition system is unable to consistently and successfully predict the cost, schedule, and performance of defense systems.
12. Lifecycle management of programs is inefficient and creates higher-than-necessary costs.

The next phase will use these prior studies as a starting point, identify root causes, and develop recommendations for addressing them. In accordance with your letter, those recommendations will propose specific changes to law, regulation, or policy and how the performance of each recommendation might be measured over time.

Working groups. Parallel to the effort of reviewing prior studies, NDIA has organized working groups to study areas of inquiry identified at our Acquisition Reform Kick-Off Event on May 29. After that event, 45 NDIA members volunteered to participate in one of nine working groups conducting in-depth analyses of specific issue areas. The working groups are organized to tackle the following issue areas: leadership and accountability; capabilities of the acquisition workforce; measuring the performance of the acquisition system; divergence of government-unique and general private-sector practices; contract strategy; services, information technology, and cyber acquisition; effectiveness of small business programs; contract finance, payment, incentives, and profit; and boundary conditions. Within their issue areas, the working groups are tasked to research their own problem statements, root causes for those problems, and recommendations on how to address those root causes by changes to law, regulation, or policy. Each working group will present its findings at a second acquisition reform large group event on July 29.

To give your Committees a sense of the working groups' efforts, we have included a brief example. The Divergence of Government-Unique and General Private Sector Practices Working Group has identified as one of its problems that "current policies actively discourage self-funded

development of commercial products with military applications.” The working group prospectively identified four root causes, including the narrowing of commercial item acquisition, cost analyses that do not compensate industry for self-funded investments, increased aggressiveness by the government in pursuit of technical data rights to items developed largely or entirely at private expense, and the categorical refusal to accept price analyses based on prior governmental purchases, contrary to the Federal Acquisition Regulation Sec. 15.404-1.

Based on these root causes, the working group has developed a set of recommendations. First, the group believes the government should use price analysis only to confirm that a proposed price is fair and reasonable for a product developed at private expense. That change could be accomplished by expanding commercial item purchasing authority under the rubric of military purpose non-developmental items (as authorized in a pilot program under Sec. 866 of the Fiscal Year 2011 National Defense Authorization Act). For dual use items developed primarily at private expense, the working group recommends using price analysis for the base product, with cost analysis for any military-specific changes to the product. Prior government purchases of the same or similar items should be considered an adequate basis for price analysis, absent any material change in circumstances or an indication that earlier pricing was unfair or unreasonable. The basic premise is to consider value first: does the increase in product value outweigh the increase in cost? This reflects the principle that “institutional performance is all about getting value” (*Performance of the Defense Acquisition System: 2014 Annual Report*, p. 6). A better product at a better price is always priced fairly and reasonably, regardless of its profit margin. If the price of a product outstrips its value, that fact becomes the basis of a negotiation.

Our Report

Following the reports of the working groups on July 29, NDIA’s next steps will be to merge our prior study and working group processes into a coherent set of inputs. Following that merger, NDIA will draft our report in August. In September, NDIA will share a draft report with our membership and subject it to a peer review, including a third large group event to discuss, revise, and finalize it. In late September we will provide the final report to NDIA members and deliver it to your Committees and the Pentagon. After the final report is circulated, we hope to work with you and with the Pentagon to assist in the implementation of those of our proposals you find worthy of consideration and further development.

We plan for our final product to include sufficient detail to be actionable, yet also to be clear and brief. Our goal is to provide something approximately 50 pages in length that can be reviewed and understood easily but includes proposals we are confident will yield the desired results. Like each of you, we do not believe that omnibus legislation is the order of the day and will likely avoid sweeping changes in favor of more incremental proposals as stages toward a longer-term transformation.

Again, we are honored to be consulted by you and your Committees in the pursuit of improved acquisition. NDIA is committed to providing you with the voice of industry in response to your questions. We look forward to the continued partnership with each of you, your Committees, and your professional staff members as this process unfolds. Thank you again for the opportunity to participate, and for your leadership, patriotism, and service to our country.

Sincerely and respectfully,



Jonathan Etherton
Senior Fellow



Arnold L. Punaro
Maj. General, USMC (Ret.)
Chairman of the Board



Lawrence P. Farrell Jr.
Lt. General, USAF (Ret.)
President and CEO

CC:

The Honorable Frank Kendall, Under Secretary of Defense (AT&L)
The Honorable Katrina McFarland, Assistant Secretary of Defense (Acquisition)
The Honorable Bill LaPlante, Assistant Secretary of the Air Force (Acquisition)
The Honorable Heidi Shyu, Assistant Secretary of the Army (ALT)
The Honorable Sean Stackley, Assistant Secretary of the Navy (RDA)
RADM (Ret.) Dick Ginman, Director of Procurement and Acquisition Policy