

UPDATE ON SECTION 809 PANEL

NCMA-WI: 2018 YEAR IN REVIEW CONFERENCE

JANUARY 24, 2019

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PURPOSE: SECTION 809 PANEL

- **THE 18-PERSON PANEL, CREATED IN SECTION 809 OF THE FY 2016 NATIONAL DEFENSE AUTHORIZATION ACT (NDAA) AND AMENDED BY SECTION 863(D) OF THE NDAA FOR FY 2017 AND SECTIONS 803(C) & 883 OF THE NDAA FOR FISCAL YEAR 2018, IS TASKED WITH FINDING WAYS TO STREAMLINE AND IMPROVE THE DEFENSE ACQUISITION PROCESS. THE PANEL HAS 2 YEARS TO DEVELOP RECOMMENDATIONS FOR CHANGES IN THE REGULATION AND ASSOCIATED STATUTE TO ACHIEVE THOSE ENDS.**
- **THE PANEL WAS CHARGED WITH MAKING RECOMMENDATIONS THAT WILL SHAPE DOD'S ACQUISITION SYSTEM INTO ONE THAT IS BOLD, SIMPLE, AND EFFECTIVE.**

INITIAL CHARTER

- **REVIEW THE ACQUISITION REGULATIONS APPLICABLE TO THE DEPARTMENT OF DEFENSE WITH A VIEW TOWARD STREAMLINING AND IMPROVING THE EFFICIENCY AND EFFECTIVENESS OF THE DEFENSE ACQUISITION PROCESS AND MAINTAIN DEFENSE TECHNOLOGY ADVANTAGE AND**
- **MAKE RECOMMENDATIONS FOR THE AMENDMENT OR REPEAL OF SUCH REGULATIONS THAT THE PANEL CONSIDERS NECESSARY TO**
 - **ESTABLISH AND ADMINISTER APPROPRIATE BUYER AND SELLER RELATIONSHIP IN THE PROCUREMENT SYSTEM,**
 - **IMPROVE THE FUNCTIONING OF THE ACQUISITION SYSTEM,**
 - **ENSURE THE CONTINUING FINANCIAL AND ETHICAL INTEGRITY OF DEFENSE PROCUREMENT PROGRAMS**
 - **PROTECT THE BEST INTERESTS OF THE DEPARTMENT OF DEFENSE, AND**
 - **ELIMINATE ANY REGULATIONS THAT ARE UNNECESSARY FOR THE ABOVE PURPOSES.**

18 PERSON PANEL

Commissioners

Ms. Deidre A. Lee

Chair

- ★ Mr. David G. Ahern
- ★ Maj Gen Casey Blake, USAF
- ★ Mr. Elliott B. Branch
- ★ The Honorable Allan V. Burman
- ★ Mr. David A. Drabkin
- ★ VADM Joseph W. Dyer, USN (Ret.)
- ★ Ms. Cathleen D. Garman
- ★ Ms. Claire M. Grady
- ★ BG Michael D. Hoskin, USA
- ★ The Honorable William A. LaPlante
- ★ Maj Gen Kenneth D. Merchant, USAF (Ret.)
- ★ Mr. David P. Metzger
- ★ Dr. Terry L. Raney
- ★ Maj Gen Darryl A. Scott, USAF (Ret.)
- ★ LTG N. Ross Thompson III, USA (Ret.)
- ★ Mr. Laurence M. Trowel
- ★ Mr. Charlie E. Williams, Jr.

TEAM CONCEPT

- TO COVER EVERY ASPECT NEEDED TO IMPROVE THE DEFENSE ACQUISITION PROCESS, THE SECTION 809 PANEL DEVELOPED TEAMS TO ANALYZE SPECIFIC TOPICS.
- EACH TEAM HAD ITS OWN GOAL, AND EVERY TEAM WORKED COHESIVELY TO MEET THE END GOAL: TO STREAMLINE AND ENHANCE ACQUISITION AND PROCUREMENT OF DEFENSE EQUIPMENT IN THE DOD.
- PANEL REQUESTED FEEDBACK FROM BOTH CONTRACTORS & GOVERNMENT PROCUREMENT OFFICIALS ON SMALL-BUT-PESKY ISSUES THAT SLOW ACQUISITION

10 TEAMS



Review acquisition regulations and statutes and recommend changes or deletions for timely acquisition of systems, services and solutions. Focus on recommendations to maintain DoD's technological advantage and enhance access to emerging technologies.



Streamline noncomplex acquisitions less than \$15 million to enable DoD to meet its acquisition needs for smaller contracts.

10 TEAMS



Simplify DoD's commercial buying practices to be more adaptable and agile in acquisition and to have greater access to companies not currently selling to the department.



Evaluate and remove regulatory, cultural, or bureaucratic barriers to entry to the DoD marketplace. Attract companies interested in conducting business with DoD that have not previously entered the DoD marketplace.

10 TEAMS



Identify attributes and qualities common to successful programs that can be widely employed and provide recommendations for best practices, regulations, and statutes.



Streamline the information technology (IT) acquisition process with a specific focus on defense business systems and IT services. Increase use of commercial best practices and business processes, delivering capability faster and keeping DoD's technology current and supportable.

10 TEAMS



How DoD gets money and how it is spent. Optimize efficient flow of resources of the acquisition budgeting process in DoD.



Identify, then streamline or eliminate regulations pertaining to defense acquisition that are no longer necessary.

10 TEAMS



Modernize cost accounting standards.



Consider statutory and regulatory reform that would foster a culture of authority and accountability in the acquisition process, enabling the workforce to serve the mission free of unnecessary obstacles.

SECTION 809 REPORTS

- **INTERIM REPORT: MAY 2017**
 - **PROVIDED THE GOALS FOR THE PANEL – INITIAL 5 AREAS OF CONCERN**
- **SUPPLEMENTAL REPORT: MAY 2017**
 - **PROVIDED 5 ACTIONABLE ITEMS FOR IMMEDIATE ACTION**
- **VOLUME 1 REPORT: JANUARY 2018**
 - **24 RECOMMENDATIONS IN 8 AREAS OF CONCERN**
- **VOLUME 2 REPORT: JUNE 2018**
 - **10 RECOMMENDATIONS IN 7 AREAS OF CONCERN**
- **VOLUME 3 REPORT: JANUARY 15, 2018**
 - **69 RECOMMENDATIONS IN 13 AREAS OF CONCERN**

PANEL REPORT SUMMARY

- **SECTION VOLUMES 1, 2, & 3 COMPRISE 2,000 PAGES COVERING SEVERAL SPECIFIC AREAS AND 93 RECOMMENDATIONS. ALL RECOMMENDATIONS INCLUDE:**
 - **THE “WHO” NEEDS TO TAKE ACTION (EXECUTIVE OR LEGISLATIVE BRANCH)**
 - **THE FAR REFERENCES/ EXECUTIVE ORDERS, ETC. THAT NEED UPDATE.**
 - **PROVIDED RECOMMENDED LANGUAGE FOR THE NECESSARY UPDATES TO STATUTE AND / OR REGULATIONS, INCLUDING CANCELLING OR REPEALING ITEMS.**

PANEL REPORT SUMMARY”

- **PROCUREMENT METHODOLOGY – DYNAMIC MARKETPLACE FRAMEWORK**
- **AMONG THE OTHER BROAD TOPICS COVERED BY THE FINAL REPORT:**
 - **REFORMS TO DOD’S MANAGEMENT OF ITS ACQUISITION WORKFORCE**
 - **A “CLEANUP” OF THE U.S. CODE TO MAKE EXISTING ACQUISITION LAW MORE NAVIGABLE FOR THAT WORKFORCE**
 - **IMPROVING ACQUISITION PROFESSIONALS’ ACCESS TO EXISTING BUSINESS AND FINANCIAL DATA TO HELP STRUCTURE THEIR PROCUREMENTS**
 - **A PROPOSED OVERHAUL OF INFORMATION TECHNOLOGY PROCUREMENT**
 - **STREAMLINING THE EXISTING “LABYRINTH” OF COMPLIANCE CONCERNS FOR THE GOVERNMENT AND INDUSTRY**

Dynamic Marketplace Framework



Readily Available

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

Readily Available with Customization

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

Defense-unique

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

DYNAMIC MARKETPLACE

- **READILY AVAILABLE:**
 - **ACQUISITION OFFICIALS WOULD BE ABLE TO BUY ITEMS ON A FIXED-PRICE BASIS WORTH UP TO \$15 MILLION— OR HIGHER WITH SENIOR OFFICIAL APPROVAL — VIA DIRECT SOLICITATIONS OR PRICE QUOTES. THEY WOULD NOT HAVE TO PUBLICLY ADVERTISE THEIR REQUIREMENTS AT ALL, AND WOULD NOT HAVE TO SET ASIDE THOSE REQUIREMENTS FOR SMALL BUSINESSES.**
 - **THEY WOULD ALSO BE ABLE TO MAKE PURCHASES FROM SMALL AND NONTRADITIONAL BUSINESSES THAT HAVEN'T REGISTERED IN THE GOVERNMENT'S SYSTEM FOR AWARD MANAGEMENT (SAM), AND SMALL BUSINESSES WOULD GET A 5 PERCENT "PRICE PREFERENCE."**
 - **EXISTING CONSTRAINTS — LIKE REQUIREMENTS TO COMPLY WITH THE BUY AMERICAN ACT AND THE BERRY AMENDMENT WOULD NOT APPLY**
 - **THE DEPARTMENT WOULDN'T BE ALLOWED TO DEMAND ANY MORE INTELLECTUAL PROPERTY FROM ITS VENDORS THAN THOSE COMPANIES ALREADY SUPPLY TO THEIR COMMERCIAL CUSTOMERS**
 - **BID PROTESTS WOULD ALSO BE SERIOUSLY CURTAILED-RESTRICTED TO FILING COMPLAINTS WITH DOD ITSELF**

DYNAMIC MARKETPLACE

- **READILY AVAILABLE WITH CUSTOMIZATION**
 - **SIMILAR PRINCIPLES TO “READILY AVAILABLE” BUT ALLOW FOR SLIGHTLY MORE GOVERNMENT CONTRACT STIPULATIONS, OVERSIGHT AND TRANSPARENCY.**
 - **COVERS MOST OF DOD’S SERVICES SPENDING**
 - **USUALLY WOULD NEED PUBLICALLY SOLICITED ACTIVITY FOR MORE THAN \$15M**
 - **LOSING BIDDERS CAN FILE BOTH PRE AND POST-AWARD GAO PROTESTS**
 - **DOD WOULD BE REQUIRED TO KEEP GOVERNMENT-UNIQUE CONTRACT CLAUSES TO A MINIMUM**
 - **CURRENT PROCUREMENT LAWS SUCH AS BUY AMERICAN ACT WOULD NOT APPLY**

DYNAMIC MARKETPLACE

- **DEFENSE UNIQUE DEVELOPMENT PRODUCTS**
 - **PANEL ACKNOWLEDGED THAT DOD AND CONGRESS HAD ALREADY DONE SIGNIFICANT WORK TO DEVELOP ALTERNATIVE ACQUISITION APPROACHES**
 - **OTHER TRANSACTION AGREEMENTS (OTAS),**
 - **THE NEWLY-IMPLEMENTED MIDDLE-TIER ACQUISITION AUTHORITY**
 - **COMMERCIAL SOLUTIONS OPENING PROCESS FIRST PIONEERED BY THE DEFENSE INNOVATION UNIT.**
 - **THE PANEL RECOMMENDS THAT CONGRESS AND DOD ADOPT A “PORTFOLIO MANAGEMENT” APPROACH TO ACQUISITION.**
 - **GROUP THE SYSTEMS EACH OF THE MILITARY SERVICES ARE BUYING INTO COHERENT BUNDLES, AND MANAGE THEM AS SETS OF CAPABILITIES INSTEAD OF ONE-OFF PROGRAMS.**
 - **PORTFOLIO ACQUISITION EXECUTIVES SHOULD MAKE ACQUISITION, PROCUREMENT, AND SUSTAINMENT DECISIONS FOR AGILITY AND RESPONSIVENESS IN EXECUTING EMERGING NEEDS IN A TIMELY AND EFFECTIVE MANNER**

INTERIM REPORT ISSUED MAY 2017

- **THE INTERIM REPORT**
 - **PANEL'S FRAMEWORK FOR THE NEED FOR ACQUISITION REFORM. THE FIVE MAIN SECTIONS OF THE REPORT, WILL GUIDE THE PANEL'S FUTURE WORK AND RECOMMENDATIONS**
 - **ADAPT AT THE SPEED OF A CHANGING WORLD**
 - **LEVERAGE THE DYNAMIC DEFENSE MARKETPLACE**
 - **ALLOCATE RESOURCES EFFECTIVELY**
 - **SIMPLIFY ACQUISITION**
 - **ENABLE THE WORKFORCE**

INTERIM REPORT – SUPPLEMENTAL MAY 2017

- **SUPPLEMENTAL REPORT ISSUED TO PROVIDE 5 ACTIONABLE ITEMS FOR CONSIDERATION AS EXAMPLES OF WHAT ARE PROBLEMS:**
 - **AFFIRM AGENCY MISSION AS THE PRIMARY GOAL OF DOD ACQUISITION.**
 - **INCREASE CONTRACT TIME FOR FUEL STORAGE FROM 20 YEARS TO 30 YEARS**
 - **ELIMINATE THE REQUIREMENT FOR CONTRACTORS TO USE RECYCLED PAPER**
 - **ELIMINATE FAR SECTION ON TEXTING WHILE DRIVING.**
 - **ELIMINATE THE REQUIREMENT TO ACCEPT AND DISPENSE DOLLAR COINS AT GOVERNMENT BUSINESS OPERATIONS**

SUPPLEMENTAL REPORT – MAY 2017

- **THE PANEL PROVIDED 5 CASE STUDY ISSUES FOLLOWING THE FORMAT OF:**
 - **PROBLEM STATEMENT**
 - **BACKGROUND OF HOW CURRENT SITUATION DEVELOPED**
 - **FINDINGS**
 - **CONCLUSIONS**
 - **RECOMMENDATIONS**
 - **INCLUDING THE “WHO” (EXECUTIVE OR LEGISLATIVE ACTION)**
 - **PROVIDED THE FAR REFERENCES/ EXECUTIVE ORDERS, ETC. THAT NEED UPDATE.**

VOLUME 1: JANUARY 2018 REPORT

- **642 PAGE REPORT SUBMITTED NOTED AS “REPORT 1 OF 3”
ISSUED JANUARY 31, 2018**

- **“VOLUME I REPORT CONTINUES THE SECTION 809 PANEL'S COMPREHENSIVE EXAMINATION OF ACQUISITION REFORM.”**
- **THE REPORT INTRODUCED THE DYNAMIC MARKETPLACE FRAMEWORK-AN APPROACH FOR AN OUTCOME-BASED ACQUISITION SYSTEM FOR PROVIDING DOD ACCESS TO THE ENTIRE MARKET. THE PANEL'S RESEARCH SHOWED UNEQUIVOCALLY THAT THE CUMBERSOME, AND OFTEN ONE-SIZE-FITS • ALL, ACQUISITION PROCESS IS AN OBSTACLE TO DOD' S ABILITY TO ACCESS A MARKETPLACE THAT HAS MOVED FAR BEYOND THE CAPTIVE INDUSTRIAL BASE OF THE COLD WAR ERA.**

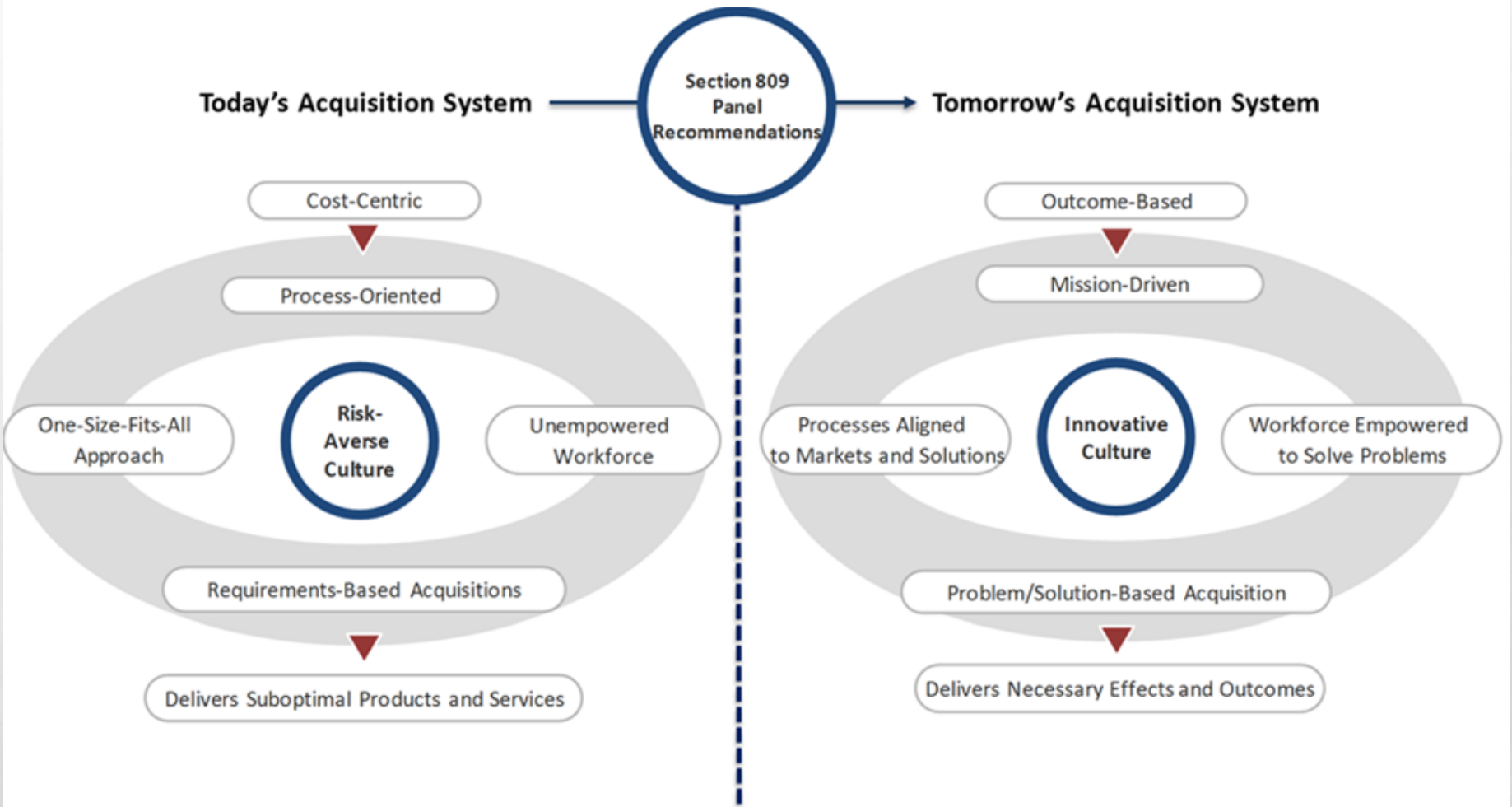
VOLUME 1: JANUARY 2018 REPORT

- **REPORT CONTAINED RECOMMENDATIONS TO**
 - **UPDATE THE PROCESS BY WHICH DOD ACQUIRES IT BUSINESS SYSTEMS,**
 - **STREAMLINE DOD'S CUMBERSOME AUDITING REQUIREMENTS,**
 - **ADDRESS CHALLENGES IN HOW THE SMALL BUSINESS COMMUNITY AND DOD INTERACT,**
 - **UPDATE COMMERCIAL BUYING,**
 - **CLARIFY DEFINITION OF PERSONAL AND NON-PERSONAL SERVICES,**
 - **REMOVE STATUTORY REQUIREMENTS FOR 13 ACQUISITION-RELATED DOD OFFICES, AND**
 - **REPEAL 20 ACQUISITION-RELATED STATUTORY REPORTING REQUIREMENTS.**

VOLUME 1 : DYNAMIC MARKETPLACE

- **VOLUME 1 INTRODUCED THE 809 PANEL'S CONCEPT OF DYNAMIC MARKETPLACE & THE PANEL'S VISION FOR THE FUTURE:**
 - **THE SECTION 809 PANEL, IDENTIFIED FIVE ESSENTIAL ATTRIBUTES THAT SHOULD BE INHERENT IN TOMORROW'S OUTCOME-BASED ACQUISITION SYSTEM:**
 - **COMPETITIVE AND COLLABORATIVE**
 - **ADAPTIVE AND RESPONSIVE**
 - **TRANSPARENT**
 - **TIME SENSITIVE**
 - **ALLOWS FOR TRADE-OFFS**

Figure 1. The Section 809 Panel's Vision for Transforming Defense Acquisition



REPORT 1 - JAN 2018

- **SECTION 1: COMMERCIAL MARKET**

- **REC. 1: REVISE DEFINITIONS RELATED TO COMMERCIAL BUYING TO SIMPLIFY THEIR APPLICATION AND ELIMINATE INCONSISTENCY.**
- **REC. 2: MINIMIZE GOVERNMENT-UNIQUE TERMS APPLICABLE TO COMMERCIAL BUYING.**
- **REC. 3: ALIGN AND CLARIFY FAR COMMERCIAL TERMINATION LANGUAGE.**
- **REC. 4: REVISE DFARS SECTIONS RELATED TO RIGHTS IN TECHNICAL DATA POLICY FOR COMMERCIAL PRODUCTS**

REPORT 1 - JAN 2018

- **SECTION 2: CONTRACT COMPLIANCE / AUDIT**

- **REC. 5: ALIGN DCAA'S MISSION STATEMENT TO FOCUS ON ITS PRIMARY CUSTOMER, THE CONTRACTING OFFICER.**
- **REC. 6: REVISE THE ELEMENTS OF DCAA'S ANNUAL REPORT TO CONGRESS TO INCORPORATE MULTIPLE KEY METRICS.**
- **REC. 7: PROVIDE FLEXIBILITY TO CONTRACTING OFFICERS AND AUDITORS TO USE AUDIT AND ADVISORY SERVICES WHEN APPROPRIATE.**
- **REC. 8: ESTABLISH STATUTORY TIME LIMITS FOR DEFENSE OVERSIGHT ACTIVITIES.**
- **REC. 9: PERMIT DCAA TO USE INDEPENDENT PUBLIC ACCOUNTING (IPA) TO MANAGE RESOURCES TO MEET TIME LIMITS.**
- **REC. 10: REPLACE SYSTEM CRITERIA FROM DFARS 252.242-7006, ACCOUNTING SYSTEM ADMINISTRATION, WITH AN INTERNAL CONTROL AUDIT TO ASSESS THE ADEQUACY OF CONTRACTORS' ACCOUNTING SYSTEMS.**

REPORT 1 - JAN 2018

• SECTION 2: CONTRACT COMPLIANCE / AUDIT

- **REC. 11: DEVELOP A PROFESSIONAL PRACTICE GUIDE FOR DOD'S OVERSIGHT OF CONTRACTOR COSTS AND BUSINESS SYSTEMS.**
- **REC. 12: REQUIRE DCAA TO OBTAIN PEER REVIEW FROM A QUALIFIED EXTERNAL ORGANIZATION.**
- **REC. 13: INCREASE COVERAGE OF THE EFFECTIVENESS OF CONTRACTOR INTERNAL CONTROL AUDITS BY LEVERAGING IPAS.**
- **REC. 14: INCENTIVIZE CONTRACTOR COMPLIANCE AND MANAGE RISK EFFICIENTLY THROUGH ROBUST RISK ASSESSMENT.**
- **REC. 15: CLARIFY AND STREAMLINE THE DEFINITION OF AND REQUIREMENTS FOR AN ADEQUATE INCURRED COST PROPOSAL TO REFOCUS THE PURPOSE OF DOD'S OVERSIGHT.**

REPORT 1 - JAN 2018

- **SECTION 3: ACQUISITION OF INFORMATION TECHNOLOGY SYSTEMS**
 - **REC. 16: COMBINE AUTHORITY FOR REQUIREMENTS, RESOURCES, AND ACQUISITION IN A SINGLE, EMPOWERED ENTITY TO GOVERN DEFENSE BUSINESS SYSTEMS (DBS) PORTFOLIOS SEPARATE FROM THE EXISTING ACQUISITION CHAIN OF COMMAND.**
 - **REC. 17: ELIMINATE THE SEPARATE REQUIREMENT FOR ANNUAL INVESTMENT REVIEW BOARD (IRB) CERTIFICATION OF DBS INVESTMENTS.**
 - **REC. 18: FUND DBSS IN A WAY THAT ALLOWS FOR COMMONLY ACCEPTED SOFTWARE DEVELOPMENT APPROACHES.**

REPORT 1 - JAN 2018

- **SECTION 4: EARNED VALUE MANAGEMENT FOR SOFTWARE PROGRAMS USING AGILE**

- **REC. 19: ELIMINATE THE EARNED VALUE MANAGEMENT MANDATE FOR SOFTWARE PROGRAMS USING AGILE METHODS.**

- **SECTION 5: SERVICE CONTRACTING**

- **REC. 20: CLARIFY THE DEFINITIONS OF PERSONAL AND NON-PERSONAL SERVICES AND INCORPORATE IN THE DFARS A DESCRIPTION OF SUPERVISORY RESPONSIBILITIES FOR SERVICES CONTRACTS.**

- **SECTION 6: SMALL BUSINESS**

- **REC. 21: REFOCUS DOD'S SMALL BUSINESS POLICIES AND PROGRAMS TO PRIORITIZE MISSION AND ADVANCE WARFIGHTING CAPABILITIES AND CAPACITIES.**

REPORT 1 - JAN 2018

- **SECTION 7: STATUTORY OFFICES AND DESIGNATED OFFICIALS**
 - **REC. 22: ELIMINATE, OR SUNSET WITHIN 5 YEARS, THE STATUTORY REQUIREMENT FOR CERTAIN ACQUISITION-RELATED OFFICES AND SECRETARY OF DEFENSE DESIGNATED OFFICIALS TO INCREASE FLEXIBILITY AND/OR REDUCE REDUNDANCY.**
- **SECTION 8: STATUTORY REPORTING**
 - **REC. 23: ESTABLISH A PERMANENT, AUTOMATIC 5-YEAR SUNSET PROVISION FOR DOD CONGRESSIONAL REPORTING REQUIREMENTS.**
 - **REC. 24: REPEAL, PRESERVE, OR MAINTAIN VARIOUS DOD CONGRESSIONAL REPORTING REQUIREMENT**

REPORT 2 – JUNE 2018

- **SECTION 1: IMPROVE DEFENSE ACQUISITION**
 - **MOVE FROM PROGRAM – CENTRIC TO PORTFOLIO MANAGEMENT STRUCTURE**
 - **FOCUS ON STRATEGIC OBJECTIVES NOT PREDEFINED MATERIAL REQUIREMENT**
- **SECTION 2: ACQUISITION WORKFORCE:**
 - **REC 25: STREAMLINE / ADAPT HIRING AUTHORITIES**
 - **REC 26: CONVERT CIVILIAN ACQ. WORKFORCE PERSONNEL DEMO PROJECT TO PERMANENT STATUS**
 - **REC 27: IMPROVE RESOURCING, ALLOCATION AND MANAGEMENT OF DEFENSE ACQUISITION WORKFORCE DEVELOPMENT FUND.**

REPORT 2 – JUNE 2018

- **SECTION 3: SIMPLIFIED COMMERCIAL SOURCE SELECTION**
 - **REC 28: SIMPLIFY THE SELECTION OF SOURCES FOR COMMERCIAL PRODUCTS AND SERVICES**
- **SECTION 4: COST ACCOUNTING STANDARDS**
 - **REC 29: REVISE U. S. CODE TO DESIGNATE CAS BOARD AS AN INDEPENDENT FEDERAL ORGANIZATION WITHIN THE EXECUTIVE BRANCH.**
 - **REC 30: RESHAPE CAS PROGRAM REQUIREMENTS TO FUNCTION BETTER IN A CHANGED ACQUISITION ENVIRONMENT.**

REPORT 2 – JUNE 2018

- **SECTION 5: SERVICE CONTRACTING**
 - **REC 31: ELIMINATE STATUTORY/REGULATORY DISTINCTION BETWEEN PERSONAL SERVICES CONTRACTS AND NON-PERSONAL SERVICES CONTRACTS**
- **SECTION 6: ADDITIONAL STREAMLINING RECOMMENDATIONS**
 - **REC 32: EXEMPT DOD FROM PAYING THE FEDERAL RETAIL EXCISE TAX**
 - **REC 33: UPDATE THE ASSIGNMENT OF CLAIMS PROCESS UNDER FAR 32.805**
- **SECTION 7: TITLE 10 REORGANIZATION**
 - **REC 34: REPEAL CERTAIN TITLE 10 SECTIONS – CREATE A NEW PART V AND MAKE A MORE LOGICAL ORGANIZATION FOR GREATER EASE OF USE.**

REPORT 3 – JANUARY 2019

- **SECTION 1: MARKETPLACE FRAMEWORK**
 - **REC 35: REPLACE COMMERCIAL BUYING AND THE EXISTING SIMPLIFIED ACQUISITION PROCEDURES AND THRESHOLDS WITH SIMPLIFIED READILY AVAILABLE PROCEDURES FOR PROCURING READILY AVAILABLE PRODUCTS AND SERVICES AND READILY AVAILABLE PRODUCTS AND SERVICES WITH CUSTOMIZATION.**

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REPORT 3 – JANUARY 2019

- **SECTION 2: PORTFOLIO MANAGEMENT FRAME- WORK**

- **REC. 36: TRANSITION FROM A PROGRAM- CENTRIC EXECUTION MODEL TO A PORTFOLIO EXECUTION MODEL.**
- **REC. 37: IMPLEMENT A DEFENSE WIDE CAPABILITY PORTFOLIO FRAMEWORK THAT PROVIDES AN ENTERPRISE VIEW OF EXISTING AND PLANNED CAPABILITY, TO ENSURE DELIVERY OF INTEGRATED AND INNOVATIVE SOLUTIONS TO MEET STRATEGIC OBJECTIVES.**
- **REC. 38: IMPLEMENT BEST PRACTICES FOR PORTFOLIO MANAGEMENT.**
- **REC. 39: LEVERAGE A PORTFOLIO STRUCTURE FOR REQUIREMENTS.**
- **REC. 40: PROFESSIONALIZE THE REQUIREMENTS MANAGEMENT WORKFORCE.**
- **REC. 41: ESTABLISH A SUSTAINMENT PROGRAM BASELINE, IMPLEMENT KEY ENABLERS OF SUSTAINMENT, ELEVATE SUSTAINMENT TO EQUAL STANDING WITH DEVELOPMENT AND PROCUREMENT, AND IMPROVE THE DEFENSE MATERIEL ENTERPRISE FOCUS ON WEAPON SYSTEM READINESS.**
- **REC. 42: REDUCE BUDGETARY UNCERTAINTY, INCREASE FUNDING FLEXIBILITY, AND ENHANCE THE ABILITY TO EFFECTIVELY EXECUTE SUSTAINMENT PLANS AND ADDRESS EMERGENT SUSTAINMENT REQUIREMENTS.**

REPORT 3 – JANUARY 2019

- **SECTION 3: IT PROCUREMENT**
 - **REC. 43: REVISE ACQUISITION REGULATIONS TO ENABLE MORE FLEXIBLE AND EFFECTIVE PROCUREMENT OF CONSUMPTION-BASED SOLUTIONS.**
 - **REC. 44: EXEMPT DOD FROM CLINGER– COHEN ACT PROVISIONS IN TITLE 40.**
 - **REC. 45: CREATE A PILOT PROGRAM FOR CONTRACTING DIRECTLY WITH INFORMATION TECHNOLOGY CONSULTANTS THROUGH AN ONLINE TALENT MARKETPLACE.**

REPORT 3 – JANUARY 2019

- **SECTION 4: BUDGET**

- **REC. 46: EMPOWER THE ACQUISITION COMMUNITY BY DELEGATING BELOW THRESHOLD REPROGRAMMING DECISION AUTHORITY TO PORTFOLIO ACQUISITION EXECUTIVES.**
- **REC. 47: RESTORE REPROGRAMMING DOLLAR THRESHOLDS TO MATCH THEIR PREVIOUS LEVELS RELATIVE TO INFLATION AND THE DOD BUDGET.**
- **REC. 48: INCREASE TO 50 PERCENT THE LESSER OF 20 PERCENT RESTRICTION THAT CREATES ARTIFICIALLY LOW REPROGRAMMING THRESHOLDS FOR SMALLER PROGRAMS.**
- **REC. 49: PROVIDE INCREASED FLEXIBILITY TO THE TIME PERIODS WITHIN WHICH CONTRACT OBLIGATIONS ARE PERMITTED TO OCCUR.**
- **REC. 50: ENACT REGULAR APPROPRIATIONS BILLS ON TIME.**

REPORT 3 – JANUARY 2019

- **SECTION 4: BUDGET**

- **REC. 51: MITIGATE THE NEGATIVE EFFECT OF CONTINUING RESOLUTIONS BY ALLOWING CONGRESSIONAL REGULAR APPROPRIATIONS TO REMAIN AVAILABLE FOR A STANDARDIZED DURATION FROM DATE OF ENACTMENT.**
- **REC. 52: PERMIT THE INITIATION OF ALL NEW STARTS, PROVIDED CONGRESS HAS APPROPRIATED SUFFICIENT FUNDING.**
- **REC. 53: PERMIT THE INITIATION OF ALL PRODUCTION RATE INCREASES, PROVIDED CONGRESS HAS APPROPRIATED SUFFICIENT FUNDING.**
- **REC. 54: PERMIT THE INITIATION OF MULTIYEAR PROCUREMENTS UNDER A CR.**
- **REC. 55: RAISE THE PROMPT PAYMENT ACT THRESHOLD.**

REPORT 3 – JANUARY 2019

- **SECTION 4: BUDGET**

- **REC. 56: USE AUTHORITY IN SECTION 1077 OF THE FY 2018 NDA A TO ESTABLISH A REVOLVING FUND FOR INFORMATION TECHNOLOGY MODERNIZATION PROJECTS AND EXPLORE THE FEASIBILITY OF USING REVOLVING FUNDS FOR OTHER MONEY-SAVING INVESTMENTS.**
- **REC. 57: MODIFY FISCAL LAW TO EXTEND THE DURATION OF WHEN FUNDS CANCEL FROM 5 YEARS TO 8 YEARS IN EXPIRED STATUS TO ALIGN PROGRAM ACQUISITIONS WITH FUNDING PERIODS AND PREVENT PUTTING CURRENT FUNDS AT RISK AND TO SUPPORT MEETING APPROPRIATION INTENT.**
- **REC. 58: ADDRESS THE ISSUE OF OVER-AGE CONTRACTS THROUGH (A) ESTABLISHING AN END-TO-END, INTEGRATED, STREAMLINED PROCESS, (B) CODIFYING DCMA'S QUICK CLOSE OUT CLASS DEVIATION IN THE DFARS, AND (C) EXTENDING DCMA'S LOW RISK QUICK CLOSE OUT INITIATIVE BY 2 YEARS.**

REPORT 3 – JANUARY 2019

- **SECTION 5: ACQUISITION WORKFORCE**

- **REC. 59: REVISE THE DEFENSE ACQUISITION WORKFORCE IMPROVEMENT ACT TO FOCUS MORE ON BUILDING PROFESSIONAL QUALIFICATIONS.**
- **REC. 60: IMPLEMENT ACQUISITION CAREER PATHS THAT ARE INTEGRATED WITH AN INSTITUTIONALIZED COMPETENCY MODEL TAILORED TO MISSION NEEDS.**
- **REC. 61: CREATE A COMPREHENSIVE PUBLIC– PRIVATE EXCHANGE PROGRAM FOR DOD’S ACQUISITION WORKFORCE.**

REPORT 3 – JANUARY 2019

- **SECTION 6: STREAMLINING AND IMPROVING COMPLIANCE**

- **REC. 62: UPDATE THE FAR AND DFARS TO REDUCE BURDENS ON DOD'S COMMERCIAL SUPPLY CHAIN TO DECREASE COST, PREVENT DELAYS, REMOVE BARRIERS, AND ENCOURAGE INNOVATION AVAILABLE TO THE MILITARY SERVICES.**
- **REC. 63: CREATE A POLICY OF MITIGATING SUPPLY CHAIN AND PERFORMANCE RISK THROUGH REQUIREMENTS DOCUMENTS.**
- **REC. 64: UPDATE SOCIOECONOMIC LAWS TO ENCOURAGE PURCHASING FROM NONTRADITIONAL SUPPLIERS BY (A) ADOPTING EXCEPTIONS FOR DOD TO DOMESTIC PURCHASING PREFERENCE REQUIREMENTS FOR COMMERCIAL PRODUCTS, AND (B) ADOPTING A PUBLIC INTEREST EXCEPTION AND PROCEDURES FOR THE BERRY AMENDMENT IDENTICAL TO THE ONES THAT EXIST FOR THE BUY AMERICAN ACT.**
- **REC. 65: INCREASE THE ACQUISITION THRESHOLDS OF THE DAVIS–BACON ACT, THE WALSH–HEALEY PUBLIC CONTRACTS ACT, AND THE SERVICES CONTRACT ACT TO \$2 MILLIN**
- **REC. 66: ESTABLISH A PURPOSE STATEMENT FOR BID PROTESTS IN THE PROCUREMENT SYSTEM TO HELP GUIDE ADJUDICATIVE BODIES IN RESOLVING PROTESTS CONSISTENT WITH SAID PURPOSE AND ESTABLISH A STANDARD BY WHICH THE EFFECTIVENESS OF PROTESTS MAY BE MEASURED.**
- **REC. 67: REDUCE POTENTIAL BID PROTEST PROCESSING TIME BY ELIMINATING THE OPPORTUNITY TO FILE A PROTEST WITH THE COFC AFTER FILING AT THE GAO AND REQUIRE THE COFC TO ISSUE A DECISION WITHIN 100 DAYS OF ORDERING A PROCUREMENT BE DELAYED.**

REPORT 3 – JANUARY 2019

- **SECTION 6: STREAMLINING AND IMPROVING COMPLIANCE**
 - **REC. 68: LIMIT THE JURISDICTION OF GAO AND COFC TO ONLY THOSE PROTESTS OF PROCUREMENTS WITH A VALUE THAT EXCEEDS, OR ARE EXPECTED TO EXCEED, \$75,000.**
 - **REC. 69: PROVIDE AS PART OF A DEBRIEFING, IN ALL PROCUREMENTS WHERE A DEBRIEFING IS REQUIRED, A REDACTED SOURCE SELECTION DECISION DOCUMENT AND THE TECHNICAL EVALUATION OF THE VENDOR RECEIVING THE DEBRIEFING.**
 - **REC. 70: AUTHORIZE DOD TO DEVELOP A REPLACEMENT APPROACH TO THE INVENTORY OF CONTRACTED SERVICES REQUIREMENT UNDER 10 U.S.C. § 2330A.**

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- **SECTION 6: STREAMLINING AND IMPROVING COMPLIANCE**
 - **REC 71: ADOPT THE PROFESSIONAL PRACTICE GUIDE TO SUPPORT THE CONTRACT AUDIT PRACTICE OF DOD AND THE INDEPENDENT PUBLIC ACCOUNTANTS DOD MAY USE TO MEET ITS CONTRACT AUDIT NEEDS, AND DIRECT DOD TO ESTABLISH A WORKING GROUP TO MAINTAIN AND UPDATE THE GUIDE.**
 - **REC. 72: REPLACE 18 SYSTEM CRITERIA FROM DFARS 252.242-7006, ACCOUNTING SYSTEM ADMINISTRATION, WITH AN INTERNAL CONTROL AUDIT TO ASSESS THE ADEQUACY OF CONTRACTORS' ACCOUNTING SYSTEMS BASED ON SEVEN SYSTEM CRITERIA.**
 - **REC. 73: REVISE THE DEFINITION OF BUSINESS SYSTEM DEFICIENCIES TO MORE CLOSELY ALIGN WITH GENERALLY ACCEPTED AUDITING STANDARDS.**

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- **SECTION 7: SIMPLIFYING PROCUREMENT AND CONTRACTING**

- **REC. 74: ELIMINATE REDUNDANT DOCUMENTATION REQUIREMENTS OR SUPERFLUOUS APPROVALS WHEN APPROPRIATE CONSIDERATION IS GIVEN AND DOCUMENTED AS PART OF ACQUISITION PLANNING.**
- **REC. 75: REVISE REGULATIONS, INSTRUCTIONS, OR DIRECTIVES TO ELIMINATE NON-VALUE- ADDED DOCUMENTATION OR APPROVALS.**
- **REC. 76: REVISE THE FAIR OPPORTUNITY PROCEDURES AND REQUIRE THEIR USE IN TASK AND DELIVERY ORDER COMPETITIONS.**
- **REC. 77: REQUIRE ROLE-BASED PLANNING TO PREVENT UNNECESSARY APPLICATION OF SECURITY CLEARANCE AND INVESTIGATION REQUIREMENTS TO CONTRACTS.**
- **REC. 78: INCLUDE THE SUPPLY OF BASIC ENERGY AS AN EXEMPTION UNDER FAR5.202.**

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• SECTION 7: SIMPLIFYING PROCUREMENT AND CONTRACTING

- REC. 79: ENABLE ENHANCED USE OF ADVANCED PAYMENTS, AT TIME OF CONTRACT AWARD, TO SMALL BUSINESSES.**
- REC. 80: PRESERVE THE PREFERENCE FOR PROCURING COMMERCIAL PRODUCTS AND SERVICES WHEN CONSIDERING SMALL BUSINESS SET-ASIDES.**
- REC. 81: CLARIFY AND EXPAND THE AUTHORITY TO USE OTHER TRANSACTION AGREEMENTS FOR PRODUCTION.**
- REC. 82: PROVIDE ARMED SERVICES BOARD OF CONTRACT APPEALS AUTHORITY TO REQUIRE FILING OF CONTRACT APPEALS THROUGH AN ELECTRONIC CASE MANAGEMENT SYSTEM.**
- REC. 83: RAISE THE MONETARY THRESHOLD TO PROVIDE AGENCY BOARDS OF CONTRACT APPEALS ACCELERATED, SMALL BUSINESS, AND SMALL CLAIMS (EXPEDITED) PROCEDURES TO \$250,000 AND \$150,000 RESPECTIVELY.**

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- **SECTION 8: GOVERNMENT–INDUSTRY INTERACTIONS**
 - **REC. 84: DIRECT DOD TO COMMUNICATE WITH THE MARKETPLACE CONCERNING ACQUISITION FROM DEVELOPMENT OF THE NEED/ REQUIREMENT THROUGH CONTRACT CLOSEOUT, FINAL PAYMENT, AND DISPOSAL.**
 - **REC. 85: ESTABLISH A MARKET LIAISON AT EACH PROCURING ACTIVITY TO FACILITATE COMMUNICATION WITH INDUSTRY.**
 - **REC. 86: ENCOURAGE GREATER INTERACTION WITH INDUSTRY DURING MARKET RESEARCH.**
 - **REC. 87: ESTABLISH A MARKET INTELLIGENCE CAPABILITY THROUGHOUT DOD TO FACILITATE COMMUNICATION THAT ENHANCES THE GOVERNMENT’S INDUSTRY KNOWLEDGE THROUGH OPEN, TWO WAY COMMUNICATION.**

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- **SECTION 9: ACQUISITION DATA**

- **REC. 88: USE EXISTING DEFENSE BUSINESS SYSTEM OPEN-DATA REQUIREMENTS TO IMPROVE STRATEGIC DECISION MAKING ON ACQUISITION AND WORKFORCE ISSUES.**
- **REC. 89: DIRECT DOD TO CONSOLIDATE OR ELIMINATE COMPETING DATA ARCHITECTURES WITHIN THE DEFENSE ACQUISITION AND FINANCIAL SYSTEM.**

- **SECTION 10: TITLE 10 REORGANIZATION**

- **REC. 90: REORGANIZE TITLE 10 OF THE U.S. CODE TO PLACE ALL OF THE ACQUISITION PROVISIONS IN A SINGLE PART, AND UPDATE AND MOVE ACQUISITION-RELATED NOTE SECTIONS INTO THE REORGANIZED ACQUISITION PART OF TITLE 10.**

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- **SECTION 11: FAR REFERENCE DOCUMENT**

- **REC. 91: REQUIRE THE ADMINISTRATOR OF GENERAL SERVICES AND THE SECRETARY OF DEFENSE TO MAINTAIN THE FAR AND DFARS RESPECTIVELY, AS ELECTRONIC DOCUMENTS WITH REFERENCES TO THE RELATED STATUTES, EXECUTIVE ORDERS, REGULATIONS, AND POLICIES, AND WITH HYPERLINKS TO FEDERAL REGISTER NOTICES.**

- **SECTION 12: MINIMIZE FLOWDOWN OF GOVERNMENT-UNIQUE TERMS IN COMMERCIAL BUYING**

- **REC. 92: MINIMIZE THE FLOWDOWN OF GOVERNMENT-UNIQUE TERMS IN COMMERCIAL BUYING BY IMPLEMENTING THE SECTION 809 PANEL'S RECOMMENDATION 2.**

- **SECTION 13: CENTER FOR ACQUISITION INNOVATION**

- **REC. 93: CREATE A CENTER FOR ACQUISITION INNOVATION LOCATED AT THE NATIONAL DEFENSE UNIVERSITY, EISENHOWER SCHOOL.**

WHAT'S NEXT

- **THE PANEL WILL PUBLISH ONE MORE REPORT FEBRUARY 15, 2019 THAT WILL TIE ALL THE VOLUMES AND THE INTERIM REPORT TOGETHER TO PROVIDE BOTH CONGRESS AND THE SECRETARY OF DEFENSE A SINGLE PICTURE OF HOW ALL OF THE RECOMMENDATIONS COME TOGETHER.**
- **EXECUTIVE / LEGISLATIVE BRANCHES ALONG WITH FAR COUNCILS DETERMINE WHAT TO DO WITH THE RECOMMENDATIONS.**

THANK YOU.

- **MORE DATA:**

- [HTTPS://SECTION809PANEL.ORG/](https://section809panel.org/)

- **THANK YOU FOR YOUR ATTENTION.**