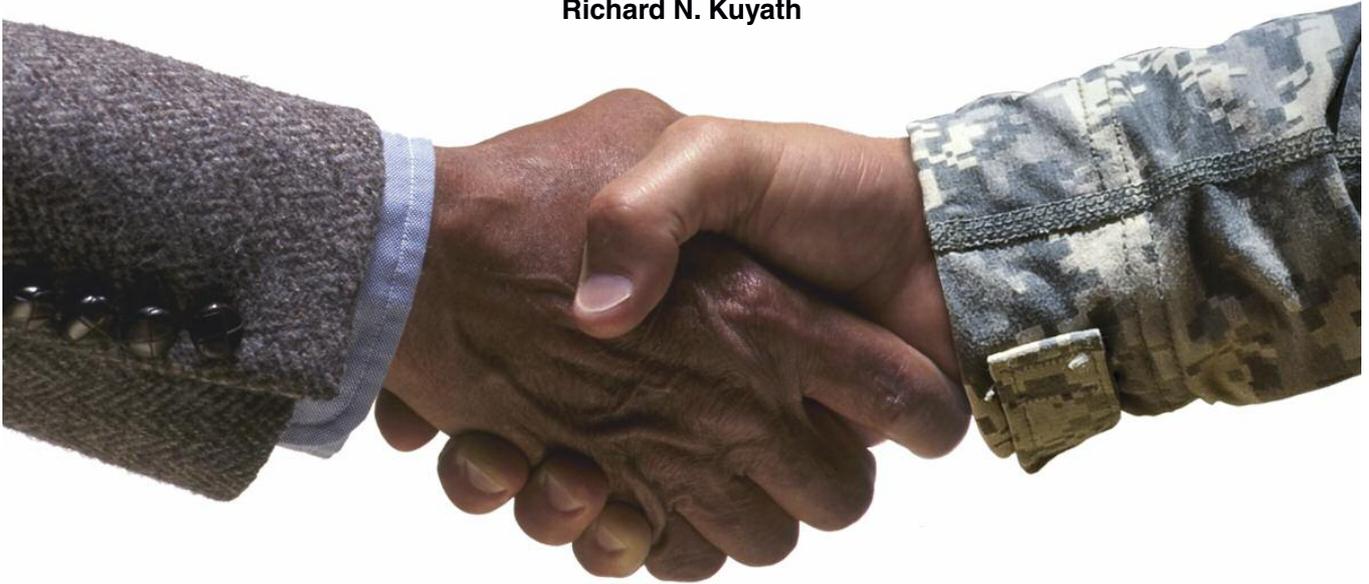


Count on Commercial Solutions To Maintain Technological Superiority

By Rory J. Yanchek
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Earlier this year, Frank Kendall, the Under Secretary of Defense for Acquisition, Technology and Logistics, told the House Armed Services Committee that, in terms of “technological superiority, the Department of Defense is being challenged in ways that I have not seen for decades.” At the same time, commercial companies face evolving barriers in the form of increasingly complex and restrictive defense-procurement policies, processes and regulations that reduce the Army’s ability to maintain technological superiority even further.

Throughout its history, the U.S. has relied heavily on the commercial-industrial sector—its flourishing research and development capabilities and cutting-edge technologies—to help advance national security by outfitting American soldiers with the best available equipment for mission readiness and success. As a result, our military remains second to none in terms of professionalism, capabilities and technological know-how. Consequently, even as DoD addresses severe cost-cutting measures, it is imperative that it continue the integration of technologies from both America’s defense and commercial-industrial sectors for the best interests of our soldiers, the Army, national security and the overall economy.

Commercial businesses are intimately aware of the long-term value of research and development investment in new and innovative technologies as well as the need to reduce

costs in order to compete in the world marketplace. For example, for more than 70 years, 3M, which is primarily a commercial company with worldwide sales, has supplied the U.S. military with both commercial and highly customized military products developed by 3M scientists and engineers leveraging some 45 core technology platforms. Virtually all 3M products used by the Army today—including Ceradyne helmets and body armor, Peltor tactical communications headsets, air filter cartridges and more—started as commercial solutions.

Many innovative commercial companies like 3M want to work with the Army to best leverage research and development investments to ensure that soldier protection and capabilities are not compromised.

DoD’s current initiatives with respect to procurement reforms, however, are aimed at rolling back commercial buying policies implemented in the mid-1990s. This could compromise the ability of our military to obtain advanced soldier-protection technologies from commercial companies in the future.

A Complicated History

Over the years, DoD-funded research and development has brought together leading commercial, military and university researchers, government officials, and experienced business leaders. The resulting technologies—from Global

Left to right: Army Gen. Martin E. Dempsey, Chairman of the Joint Chiefs of Staff, Secretary of Defense Chuck Hagel and DoD comptroller Robert F. Hale testify on the fiscal year 2015 budget request before the House Armed Services Committee.



DoD/Erin A. Kirk-Cuomo

Positioning Systems and the Internet to duct tape—helped transform the battlefield and, later, everyday life.

Collaboration between DoD and commercial companies has a complicated history, though. Congress enacted the Federal Acquisition Streamlining Act (FASA) of 1994 and the Clinger-Cohen Act of 1996 to address concerns about the growing cost of military procurement and the inability of the government to obtain access to the best available commercial technologies and products. Reforms were prompted in part when restrictive procurement policy for commercial equipment prevented DoD from buying Motorola communication devices during Operation Desert Storm. DoD was forced to circumvent its own procurement process and ask Japan to buy the hardware and provide it to U.S. soldiers.

FASA established a preference for the acquisition of commercial items “to the maximum extent practicable.” Goods or services that met FASA’s definition of “commercial item” were exempted from many statutory and regulatory acqui-

sition provisions. According to a 2012 statement by Roger Waldron, president of the Coalition for Government Procurement, this “greater reliance on commercial, off-the-shelf products, not having unique government specifications ... saved the government boatloads of money over the last 18 years.”

Today, regulations that encourage purchasing military products and services from the commercial market are being worked around or even cancelled and replaced by more restrictive regulations in the name of cost cutting. Pentagon leadership and program managers are concerned that they will not have sufficient rights in technical data and computer software to enable future competitive procurements. They are also wary of overpaying for commercial products and services from vendors, whom they cannot audit to the same extent or depth as vendors selling products built to military-defined specifications. Many DoD officials believe that the existing definition of the term *commercial item* is too broad and, as a result, enables contracts for defense systems and subsystems to be awarded using Federal Acquisition Regulation Part 12 (which establishes acquisition policies that resemble those of the commercial marketplace and encourages the acquisition of commercial items), even though they have no commercial market and no meaningful pricing history.

This perceived lack of accountability has led to attempts to change how the Pentagon buys commercial products and services. While a formal push by DoD to narrow the definition of a commercial item failed in 2012, other efforts at rolling back procurement reform continue, as shown in

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the current DoD Open Systems Architecture Contract Guidebook for Program Managers (v. 1.1, June 2013): “As part of a best value analysis, the Government may consider an offeror’s willingness to provide the Government with the necessary data deliverables, along with the equivalent of GPR [government purpose rights] or other license rights that would allow competition.”

While this guidance does not officially sanction a requirement that competing companies must relinquish their proprietary data rights to be eligible to bid, it can effectively preclude a company from winning a contract if it does not provide such data rights. There are, however, ways to make procurement a win/win for suppliers and the Army alike.

Commercial Businesses Step Up

In Secretary of Defense Chuck Hagel’s fiscal year 2015 budget preview, he discussed a series of difficult choices, noting, “We chose further reductions in troop strength and force structure in every military service—active and reserve—in order to sustain our readiness and technological superiority, and to protect critical capabilities like special operations forces and cyber resources. We chose to terminate or delay some modernization programs to protect higher priorities in procurement, research, and development.”

To follow through on these choices, the whole of the country’s innovative technological and industrial offerings must be put to work. More must be done with less. While the budget situation makes future innovation a tempting area to cut, doing so would leave the Army significantly less capable and our soldiers and country significantly less safe.

Traditional defense contractors are working hard to inject greater innovation into their culture and production lines, but they cannot provide all the answers. Studies consistently show commercial companies patent a far greater number of inventions—and in more areas of technology—than traditional defense contractors. In order to maintain technological superiority over our adversaries, the Army must be able to work with companies in the commercial sector that set the benchmark in innovation.

Commercial companies that seek to provide the military with the latest innovative technologies need to participate in the conversation more effectively about procurement reform. We must be able to offer solutions that reduce DoD’s concerns that products and services labeled as commercial come with pricing risks, and come to a solution on data rights that protect both military and commercial investments.

Delivering innovation to the military at an affordable price lies in successful evolution and integration of commercial technologies for military use in ways that permit commercial companies to continue to sell and improve their offerings to the military. For example, the base technologies for 3M Peltor COMTAC III tactical communications headsets were developed as commercial products for first responders and later were militarized for Army use. Because 3M has maintained its key proprietary data rights, this product family continues to be used in the civilian and military realms. As we advance our commercial solution to



An ultra-lightweight helmet, protective eyewear and a headset to enhance hearing are among 3M's products.

meet changing market demands, the Army has the opportunity to tap improvements in the commercial version related to protection against hearing damage and increasing situational awareness.

Working together to find win/win solutions, the Army, 3M and other commercial firms can help DoD meet long-term cost-reduction and sustainment goals. To that end, we would like to work with AUSA and the Army acquisition community to begin a conversation on acquisition reform among Army leadership, legislators and commercial innovators so 3M and other commercial companies can continue to bring cutting-edge technologies to our soldiers. Ultimately, finding win/win solutions could significantly reduce the total cost to the military and taxpayers to adopt the best available soldier-protection technologies and deliver the best value overall.

Defense procurement reform has been a long process, complex and full of half-measures. It’s time to inject more voices, ideas and technologies from the commercial sector. The stakes—soldier safety and the technological superiority of the Army—are just too high. ★