



AUSA BACKGROUND BRIEF



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DEFENSE ACQUISITION REFORM

EXECUTIVE SUMMARY

The current defense drawdown and the corresponding decrease in the defense budget have given increased impetus to efforts to reform the Department of Defense acquisition process. Clearly, there is agreement within the Department of Defense (DoD), Congress, and private industry that there is a need to streamline and consolidate the existing laws and regulations, which impose unnecessary restrictions, cumbersome procedures, and excessive costs on the acquisition process.

Acquisition reform is not a new idea. There have been a myriad of studies by special commissions, Congress, the Defense Science Board, "think tanks" and universities confirming the shortcomings of the existing acquisition system.

The report of the DoD Advisory Panel on Streamlining and Codifying Acquisition Laws provides a real basis for implementing changes in the acquisition process. The panel identified and examined more than 600 laws affecting the defense acquisition process and recommended modifying or deleting almost half of them.

Both the Carnegie Commission and the Defense Science Board have issued recent reports recommending radical revision of the current acquisition system.

DoD initiatives to implement "800 Panel" recommendations are being hampered by the need to coordinate with the multitude of agencies affected by the panel's recommendations.

The final version of the Fiscal Year 1994 Defense Authorization Bill is expected to contain only minor and noncontroversial changes in acquisition law. More substantive changes will undoubtedly be deferred to subsequent sessions.

ISSUE

Expediting the reform of the defense acquisition process is an essential aspect of maintaining a strong industrial base and reducing defense acquisition costs.

BACKGROUND

There have been six major studies examining the management of the department in the 46 years of its existence. The most recent was the President's Commission on Defense Management, the Packard Commission. The commission, in its 1986 report, concluded that "defense acquisition today is impossibly cumbersome."

Despite the general acceptance and acknowledgment of the conditions cited in the Packard Commission Report, there was no concerted effort to implement any of the proposals until 1989, when Secretary of Defense Dick Cheney issued the Defense Management Report. Secretary Cheney proposed a plan to implement the Packard Commission proposals and improve DoD acquisition procedures.

Defense Science Board Reports:

In 1989, the Defense Science Board issued a report on the use of commercial components in military equipment. The report recommended the use of commercial specifications and standards and the establishment of pilot programs to test their use. In 1991, the Defense Science Board Task Force on Acquisition Streamlining issued two reports examining the costs of acquisition oversight and identifying barriers to implementing reforms. The task force concluded that there was a significant cost associated with the existing system and that current laws and ingrained acquisition practices precluded the use of commercial acquisition practices.

The "800 Panel":

The FY 1991 Defense Authorization Act (P.L. 101-510) directed the establishment of a DoD advisory panel to review procurement laws "with a view towards streamlining the defense acquisition process." The goals of the panel were to:

- prepare a proposed code of acquisition laws;
- identify acquisition laws that are unnecessary for the establishment of buyer and seller relationships;
- ensure the continuing financial and ethical integrity of DoD procurement programs;
- protect the best interests of DoD.

The panel identified ten objectives for its review of acquisition laws. Four of the key objectives, which set the tone for the final recommendations, were:

- Acquisition laws should identify broad policy and fundamental requirements. Detailed implementation should be covered in acquisition regulations.

- Acquisition laws should promote financial integrity in ways that are simple and not unduly burdensome, and encourage efficient procurement practices.
- Acquisition laws should establish a balance between an efficient process, full and open access to the procurement system, and socioeconomic policies.
- Acquisition laws should enable companies to integrate the production of both commercial and government products without altering their business practices.

The panel recommended the repeal of 124 laws and major amendments to 163 laws of the approximately 600 defense acquisition laws it identified. The panel recommended major changes affecting contract formation and administration, use of commercial items and practices, and the establishment of a higher, simplified acquisition threshold of \$100,000.

Defense Science Board Task Force on Acquisition Reform:

In April 1993, the Defense Science Board was tasked to define the scope and method to implement necessary modifications of the defense acquisition process and, specifically, to review the recommendations of the Section 800 Panel for both immediate and long-term actions.

The task force generally concurred with the findings of the "800 Panel" and recommended that the panel's recommendations be implemented by regulations, where possible, and that the legislative proposals be supported by DoD.

The task force also recommended that the unified commanders and the Joint Staff be given a greater role in the requirements phase of the acquisition process. This would insure that the functional needs of the unified commanders (the users) are considered in terms of affordability.

DoD Initiatives:

DoD is finalizing its recommendations for some immediate impact actions — establishing a \$100,000 threshold for simplified acquisitions, removing impediments to the purchase of commercial items, and establishing pilot acquisition programs that incorporate some of the changes recommended by the "800 Panel." It is clear that these actions will not be completed in sufficient time to be included in the FY94 Defense Authorization Bill. DoD is also encountering resistance to many of its reform proposals from other federal agencies.

To date, DoD has not taken any actions to revise acquisition regulations that are not dictated by existing acquisition laws. However, there are plans to begin this effort during the current year.

One initiative that has taken place is the establishment of the position of Deputy Under Secretary of Defense for Acquisition Reform. The new deputy under secretary will be responsible for all aspects of DoD's acquisition reform initiatives.

Legislative Actions:

Legislative progress has been slow in both the House and the Senate. The House Armed Services Committee's FY94 Defense Authorization Bill (HR 2401) contains only minor revisions affecting about 40 sections in Title 10. The bill increases the acquisition threshold to \$100,000 and modifies some of the restrictions on the use of commercial items.

The House Government Operations Committee completed action on a bill, the Federal Acquisition Improvement Act (HR 2238), which has been referred to the House Armed Services Committee. This bill contains a provision to raise the simplified acquisition threshold to \$50,000.

The best chance for rapid legislative action may lie in the Senate. Senators Jeff Bingaman (D-NM) and Carl Levin (D-MI) are cosponsors of an acquisition reform bill, which is a joint product of the Senate Armed Services and Government Operations Committees. The bill (S 1587) was introduced in October 1993.

Making significant changes will be difficult because of the overlapping jurisdictions and interests of committees in the House and Senate. The "800 Panel" identified 107 committees and subcommittees that had jurisdiction or influence on DoD acquisition practices.

Costs and the Current Acquisition System:

According to the 1993 Carnegie Commission Report, *New Thinking and American Defense Technology*, almost 40 percent of the Fiscal Year 1991 acquisition budget could be attributed to the management and oversight function in DoD and private industry. This contrasts with the estimated 5-15 percent that is normal in most commercial organizations. Other estimates of the costs associated with the current defense acquisition system range from 25 percent to a high of 50 percent.

There is a clear consensus that the only way to reduce these costs is through a new acquisition system that emphasizes the use of commercial practices to the largest extent possible. In effect, this would help to integrate the defense and commercial industrial bases into a single industrial base. Implementation will be difficult because the present acquisition system is deeply ingrained and there will be substantial resistance to changing many of the old practices.

CONCLUSIONS

The report of the Defense Advisory Panel on Streamlining and Codifying Acquisition Laws could be the pivotal event in defense acquisition reform efforts. However, the panel's recommendations should be viewed as a first step, albeit a major one, in the process. The panel's review was not intended to address regulatory reform and changes in acquisition organizations and structures. Regulatory reform and increased reliance on commercial practices are key elements in the overall reform process. Finally, as the Defense Science Board Task Force on Acquisition Reform pointed out in its 1993 report, there is also a need to change the requirements process to order to involve the unified commands and the Joint Chiefs of Staff in the determination of functional needs.

Acquisition reform would:

- provide DoD improved access to technologies, products, and processes of the commercial marketplace;
- help to broaden the industrial base;
- reduce DoD acquisition costs;
- facilitate integration of the defense and civilian industrial bases and make DoD research and development and production resources available to the civilian economy.

DoD and the services need to expedite actions to modify regulations and practices that are not directly linked to existing acquisition laws.

Congress must understand that defense acquisition reform is of critical importance to DoD if it is to maintain a viable industrial base to meet future defense needs.

Acquisition reform is so essential to the maintenance of a strong industrial base to support our National Defense Strategy that we can not afford to delay action on DoD acquisition reform in order to incorporate it into an overall, federal acquisition reform package.

There must be a concerted and cooperative effort by DoD, the administration, Congress, and private industry to accomplish any real acquisition reform.

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