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EXPERT PERSPECTIVES ON MANAGING THE DEFENSE ACQUISITION SYSTEM AND THE DEFENSE ACQUISITION WORKFORCE

HEARING

BEFORE THE

PANEL ON DEFENSE ACQUISITION REFORM

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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PANEL ON DEFENSE ACQUISITION REFORM

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[There were no Questions submitted post hearing.]

EXPERT PERSPECTIVES ON MANAGING THE DEFENSE ACQUISITION SYSTEM AND THE DEFENSE ACQUISITION WORKFORCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
DEFENSE ACQUISITION REFORM PANEL,
Washington, DC, Thursday, February 25, 2010.

The panel met, pursuant to call, at 7:59 a.m., in room 2261, Rayburn House Office Building, Hon. Robert Andrews (chairman of the panel) presiding.

OPENING STATEMENT OF HON. ROBERT ANDREWS, A REPRESENTATIVE FROM NEW JERSEY, CHAIRMAN, PANEL ON DEFENSE ACQUISITION REFORM

Mr. ANDREWS. Good morning, ladies and gentlemen. Thank you for your attendance. I would like to thank my colleagues on the panel for their attendance as well.

In order to hear as much from our witnesses as we can this morning, Mr. Conaway and I are going to have very brief opening statements.

He has a very busy day, and I am participating in the health care summit today at the Blair House, so I want to not walk into the middle of it late. I think that would be a little bit of a problem, so—succinctly, we have reached the decisionmaking point of our venture here, where we are beginning to put together our report to the American people and to the Congress and the full committee.

And the purpose of today's hearing is to hear experts and leaders from three perspectives on procurement reform and workforce development, a perspective from those who have led businesses that have achieved in that area.

Norm Augustine is someone who not only has led great companies but is now the leader of an organization of leaders of great companies who have tried to contribute and have contributed to our national debate very positively and constructively.

Professor Steven Schooner is a returnee to our panel. He gave us very valuable insight early in our process, and he is back to help us today.

And Mr. Joe Flynn is national vice president of the American Federation of Government Employees. We know we will only succeed if the men and women who are committed to the institutions and agencies succeed.

And so we want to be sure that our report is inclusive and takes into account those who know best the procurement process, the men and women who work with it.

So we welcome the witnesses.

At this point I am going to yield to my friend, the senior Republican on the panel, Mr. Conaway.

[The prepared statement of Mr. Andrews can be found in the Appendix on page 23.]

STATEMENT OF HON. K. MICHAEL CONAWAY, A REPRESENTATIVE FROM TEXAS, RANKING MEMBER, PANEL ON DEFENSE ACQUISITION REFORM

Mr. CONAWAY. Thanks, Mr. Chairman.

Gentlemen, welcome. Glad to have you here this morning. And as the chairman stated, we are not past the point of good ideas. We are still looking for good ideas even though we do have a draft of the document. It looks pretty good.

Nothing is perfect, and so any input that you give us this morning is going to be much appreciated.

And with that, Mr. Chairman, I yield back.

[The prepared statement of Mr. Conaway can be found in the Appendix on page 26.]

Mr. ANDREWS. Thank you.

And again, so we can hear more substance from the witnesses, I am going to forego the usual reading of the biographies. We know and respect all three of you and appreciate the contributions you have made.

I think you know from the rules here that your written statements, without objection, are being made part of the record of the hearing. We would ask you to give us a five-minute-or-so synopsis of your written statement. And then we are going to proceed to interaction with the members of the panel.

So, Mr. Augustine, welcome. It is good to have you with us.

STATEMENT OF NORMAN R. AUGUSTINE, CHAIRMAN, TASK FORCE ON DEFENSE ACQUISITION LAW AND OVERSIGHT, BUSINESS EXECUTIVES FOR NATIONAL SECURITY

Mr. AUGUSTINE. Mr. Cooper, members of the panel, we appreciate the opportunity to share with you some of BENS', the Business Executives for National Security, some of our thoughts on defense acquisition.

As you probably know, BENS is an organization made up of mostly former business executives, mostly from the commercial sector, some from the defense sector, who came together 28 years ago to offer advice to the government on areas where we may have any particular expertise.

Last year it was my privilege to chair the BENS task force on acquisition, and in July we issued a report which you, I believe, have a copy, that we offered 25 specific recommendations that we believe would improve the acquisition process.

Today I would, in my five minutes, like to make just a few comments that I personally believe summarize the challenges that the process of acquisition still faces, and I appreciate your submitting —or including my written testimony in the record.

I would call to your attention as part of it an attachment that describes a canonical acquisition program gone wrong, and it is derived from my—goodness, 50 years, I guess, in this business. And it is a pretty good summary of why things go wrong.

Secondly, I would like to provide for the record, just so that your committee will have it available if you don't, Dave Packard's 1969 statement which is closely reflective of what we have included in our BENS report, and I will provide that for the record.

Mr. ANDREWS. Without objection, it will be considered in the record.

[The information referred to can be found in the Appendix on page 71.]

Mr. AUGUSTINE. Thank you very much. It was my privilege to work for Dave in those days, and I think he understood this process better than most anybody I have met since that time.

Individuals participating in the defense acquisition process, of course, have a particularly great fiduciary responsibility.

Not only do they take care of many billions of dollars of public money but, perhaps more importantly, the lives of our soldiers, sailors, airmen, marines, and coast guardsmen depend on how well they do their job. And in fact, the very survival of our country could depend upon that.

It has been my experience, having worked 10 years in government and the rest in the private sector, that the individuals in the defense acquisition process are in large part, overwhelming part, extremely dedicated, able people. Nonetheless, as you know, dissatisfaction with the defense acquisition process is rampant in all quarters.

The process is complex, as you know. It revolves around 15-year programs and 5-year plans and 3-year managements, 2-year Congresses, 18-month technologies, 1-year budgets and thousands of pages of regulations and laws. It is complex.

But you know, despite the serious shortcomings, it is still noteworthy that the equipment and services provided by our acquisition process remain the envy of most of the world's military forces.

But we can do better. We can do much better. Perhaps the best summary I have seen over the years of the failing of the acquisition process comes from Gil Fitzhugh's 1970 Blue Ribbon Task Force in which they said that everyone is responsible for everything, and no one is responsible for anything. I think that vividly summarizes the challenge that we face.

Today we have a large number of individuals, about 125,000 people—I calculate that to be the equivalent of 7 Army divisions—running the acquisition process. In a few areas, we need additional people, particularly in contracting and systems engineering and program management.

On the other hand, I would point out that adding, say, 10,000 people each with 1 year's experience is different from adding 500 people with 20 years experience.

And when I compare my experience in industry with government at any given level, the biggest difference is not the talent level or the commitment level. It is the experience that is relevant to the job that is being conducted.

Unfortunately, the government's hiring and employment practices make it very difficult to attract and keep the sort of talent that the government needs to conduct these difficult programs.

I would also note that the United States no longer possesses the dominant position it once held with respect to technological leader-

ship. That certainly has an impact on how we manage the defense acquisition process.

U.S. firms have also moved much of their manufacturing capability abroad. And while I believe you could probably build an economy based on a service sector, I don't think you could win wars with purely a service sector.

I would also note that the talent base within the U.S. is withering, particularly in engineering and science and mathematics. Two-thirds of the Ph.D.s that are granted in engineering today from U.S. engineering schools go to foreign individuals, many of whom are now returning home.

During this period of burgeoning technology that we have been living in, astoundingly, the number of U.S. citizens studying engineering has dropped 20 percent. The number getting Ph.D.s has actually dropped 35 percent.

The report that BENS has prepared offers a series of recommendations which I won't repeat at this point in order to keep my comments short.

I would note that the great irony is that Secretary Gates and his colleagues, I am sure, would prepare a quite comparable report. There is no great secret, I think, in terms of the nature of the problem we face.

I would just close with a quote from Dave Packard that I heard him make many times while I had the privilege of testifying alongside him over the years. He made the comment that we all know what needs to be done. The question is why aren't we doing it.

And so let me, on behalf of my colleagues at BENS, particularly the members of the committee I chaired, thank you for this opportunity to share our views.

[The prepared statement of Mr. Augustine can be found in the Appendix on page 27.]

Mr. ANDREWS. Thank you. And I think what binds us together on this panel is that we do want to do what needs to be done and not just talk about it. And your contribution is very welcome and appreciated.

Professor Schooner, welcome back to the panel. We value your participation as well.

STATEMENT OF STEVEN L. SCHOONER, CO–DIRECTOR OF THE GOVERNMENT PROCUREMENT LAW PROGRAM, GEORGE WASHINGTON UNIVERSITY LAW SCHOOL

Mr. SCHOONER. Well, good morning. And I appreciate the opportunity to again discuss Department of Defense's (DOD) pressing need to invest in the acquisition workforce. As this group knows, the empirical case that DOD's workforce has been starved for a couple decades is now compelling. So that is the easy thing.

This is obviously clear with regard to contracting officers and contract specialists but, as Norm pointed out, particularly acute with regard to program managers, systems integration, systems engineering, and those needs will need to be addressed.

I think that the one thing that is very important for us to focus on today is the Defense Department is now on record saying they are going to add 20,000 new people in a couple different ways over the next 4 years.

And I think what we need to keep in mind is it is great that they have at least begun the discussion, but we are talking about numbers that are too low and we are talking about an evolution that is simply too slow.

Just a number of reasons why 20,000 people by 2015 won't get the job done is the 1998 benchmark is fundamentally flawed. 1998 is at the end of a decade after which the congressionally mandated workforce cuts had been in place.

There has been explosive procurement spending in the last decade. Procurement increased in the Defense Department five times the rate of inflation in the last decade.

The dominance of service contracts today has totally changed the post-award contract management burden that DOD has to share.

We have a looming retirement crisis. We tend to describe the acquisition workforce today as a bathtub effect. We have lots of senior people, lots of junior people, basically nothing in the middle, and we need to do something about that as well.

In addition, what has basically happened over the last 15 years is because of the workforce problem, we have failed to effectively implement almost every significant acquisition reform that has been promulgated either by Congress or by the Administration.

The other thing to keep in mind is as DOD grows, this is not just DOD's problem. It is a government-wide problem. So as DOD finds people, trains them, and integrates them, they are going to start losing those people to the other agencies that have exactly the same problems and have historically taken highly-skilled DOD acquisition workers rather than train them themselves.

Now, Norm mentioned that right now the workforce that is available, the marketplace, is saturated with people who would love to come work for the government.

But the civil service and the Office of Personnel Management (OPM) hiring process is flawed. It is burdensome. And the overall level of awareness of these opportunities on the nation's college and university campuses is inadequate.

But at the end of the day, I think one of the most important things for us to keep in mind today is simply hiring people will not end this conversation.

There is every reason to be pessimistic that even if DOD can hire all these people, they lack the vision, the institutions and the determinations to properly train, allocate, mentor, incentivize, develop and, over time, retain all of these new professionals.

I mean, there is a number of encouraging signs. If you look at the model at the Veterans Administration Acquisition Academy—granted, a very small model—it is a wonderful holistic approach to addressing some of these concerns.

And there is a wonderful bill that has been introduced by Senators Collins, McCaskill and Bennett. I think it is S. 2901, Acquisition Workforce Improvement Act—again, a nice holistic approach.

But it is going to take major change for DOD to actually be able to manage all of these people. Leadership is a problem. I think we have every reason to be skeptical at this point of DOD's newfound commitment to investing in the acquisition workforce.

They have delegated this problem too long to the Defense Acquisition University. It is underfunded. It is overly conservative. It has

been slow, risk-averse, and it is not sufficiently potent to solve the problems.

I think that the message that we are getting from the White House very recently from the new Office of Federal Procurement Policy (OFPP) Administrator, Dan Gordon, is very encouraging. Time will tell whether he has actually been empowered to do anything about these things.

But I guess I want to close with one really significant point here. And that is we have got to do something about the pervasive anti-contractor rhetoric that we hear, because it colors the public's perception of contractors and the acquisition profession.

There is more truth than there should be behind the black humor in Jack Gansler's popular new moniker for the current environment, which he calls the "global war on contractors."

Look. Let's be clear. A successful procurement regime does depend on high standards of integrity and compliance. But the currently pervasive corruption-control focus stifles creativity and encourages mechanical rule-adherence, timidity, and risk-averse behavior by our acquisition professionals.

If, in fact, the government aspires to recruit, inspire and retain tens of thousands of new professionals, the government surely has an interest in communicating the importance to every government mission of effectively managing the government's business partners, its vendor and supplier base, or simply its contracts.

So ultimately, any prospective investment in the DOD workforce, whether it is the numbers, the skills or the morale of our purchasing officials that will reach huge—will reap huge dividends over time. It is going to be good for the taxpayer. It is going to be good for the warfighter. It has got to be done.

Thank you again for the opportunity to share these thoughts, and I would be glad to answer questions later.

[The prepared statement of Mr. Schooner can be found in the Appendix on page 49.]

Mr. ANDREWS. Professor, we look forward to that. Thank you very, very much.

Mr. Joe Flynn is the American Federation of Government Employees (AFGE) District 4 National Vice President. He is new to our panel but certainly not new to these issues. He has over 40 years experience as an AFGE activist and officer, holding numerous positions.

And it is very much our pleasure to have you with us this morning, Mr. Flynn. Welcome.

STATEMENT OF JOSEPH FLYNN, NATIONAL VICE PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO

Mr. FLYNN. Thank you, Mr. Chairman. Thank you very much. Once again, thank you very much, and I really appreciate the opportunity to appear before you today, especially since the National Security Personnel System (NSPS) has been repealed. Thank you all for that very nice gift to DOD employees.

AFGE vigorously opposed NSPS from its conception until its repeal. The original NSPS included provisions to eliminate collective bargaining rights for DOD employees, eliminate employee rights to

independent adjudication of severe disciplinary actions including termination. These anti-union, anti-worker provisions were repealed in the 2008 National Defense Authorization Act (NDAA).

And last year, following evaluations, the so-called pay for performance scheme for NSPS employees was repealed.

NSPS was tainted. It was a flawed system. And it clearly created a poisonous atmosphere, destroying collective bargaining, federal union and employee rights and protections.

Things that we do in the future—I would urge the members of the panel to make sure that these colossal mistakes are not repeated.

Despite much rhetoric to the contrary, there are alternatives, and I would like to go back to the General Schedule (GS). The General Schedule pay system is simple. It is transparent. It is flexible.

And it is particularly adept at rewarding high performance among employees when proper funding is available. And that is the key, Mr. Chairman. Proper funding.

Within grade step increases, quality step increases, individual performance bonuses—are all designed to promote individual excellence.

Two additional constructs of the GS system are the best at motivating employees. First, we have what is known as career ladders, which allow an employee to progress from one grade to the next as part of the position for which they were hired and for which they competed.

For example, an employee may begin working for an agency in a position which has a career ladder of GS–5, moves to a GS–7, to a GS–9, culminating in the journeyman grade of a GS–11.

The career ladder is similar to pay banding, except that under the career ladder the criteria for advancement are known and understood by the employee and his supervisor.

If the GS–5 employee applies himself and achieves the performance standards required, then he progresses to the GS–7. If he then achieves the performance standards for the GS–7, he progresses to the GS–9, up to the journeyman level of the GS–11.

The career ladder gives tremendous incentive to the employee to work hard and dedicate himself to the agency's mission. It assures that he will not find himself at a dead end.

Along with career ladders, merit promotion, which occurs when an employee is eligible for and promoted to a different job at a higher grade rate—these are posted for all to see, and people are hired for these positions following a competition based on merit. This is not only transparent and honest, but a promotion is very public recognition of an individual's performance.

The market elements of the GS system are based on pay studies and job matches done by the Labor Department's Bureau of Labor Statistics. The data are discussed in joint committee meetings with Office of Management and Budget (OMB), OPM, Department of Labor (DOL), AFGE, and other unions. All employees receive the same national raise and a locality raise based on the regional labor market.

AFGE has successfully negotiated numerous contracts with performance bonuses, gainsharing. During the mid 1990s, AFGE and DOD engaged in a successful 5-year demonstration project called

PACER SHARE, which made changes in organizational structure, created a new classification system and implemented gain sharing and a different performance appraisal system.

I would like to emphasize, Mr. Chairman, that all these changes were conducted through collective bargaining agreements.

AFGE is working with the Office of Personnel Management as it explores options to enhance and improve the GS system.

We are discussing changes to simplify the appraisal process so that there are generally three categories of employees—those who are in good standing, those who are superstars, and those who are not performing at an acceptable level. AFGE has negotiated contracts with just these sorts of systems and the results have been extremely favorable.

There is agreement between the employees and managers that the system is fair. It involves less tedious and often less pointless paperwork which, in turn, allows employees and their supervisors to focus on the work of the agency.

Mr. Chairman, I realize how pervasive the perception is that the federal workforce is full of incompetents who are showing up late, if they show up at all, doing virtually nothing at all—all day long and yet collecting a paycheck.

Mr. Chairman, I can tell you that my experience—it is just not that way. Nobody believes more strongly than AFGE that where we have these types of employees that they need to be dealt with in a serious manner.

It is important that hard-working rank-and-file employees are not forced to take up the slack for those who are intentionally unproductive. And AFGE certainly—certainly—does not want to have those types of employees in the workforce.

AFGE routinely negotiates contracts which simplify and expedite appeals for adverse personnel actions. The grievance arbitration process included in our contracts is transparent, impartial, and swift.

In conclusion, Mr. Chairman, in addition to our ongoing dialogue with OPM, AFGE is eager to work with DOD management to improve the performance management system as well as the hiring systems. And in that regard, we are working with OPM to try to streamline the hiring process.

Mr. Chairman, that concludes my presentation, and I look forward to any questions you may have.

[The prepared statement of Mr. Flynn can be found in the Appendix on page 56.]

Mr. ANDREWS. Mr. Flynn, thank you very much.

We will proceed with the questioning.

Mr. Augustine, I was very much in agreement with your statement that you can't fight a war or defend a country with just service industries. I think that is very important, which implies the issue of how we create stability in our industrial base.

One of the ways that the panel has looked at is the encouragement of more multiyear contracting and procurement so that our manufacturers have a better degree of predictability.

As you well know, the risk of that approach is that you can wind up tamping down competition by giving, you know, one vendor too many years where it doesn't have to compete.

What suggestions do you have for us as to how we can strike the right balance between multiyear contracting that promotes a stable or growing industrial base but promotion of effective competition to protect quality and the taxpayer?

Mr. AUGUSTINE. Well, you point to a true dilemma, and there is substantial savings to be had through multiyear contracting—at least the programs I have been involved with, that has been the case.

At the same time, I think you have to distinguish between programs with large volume, if you will—very large programs where you might—and we also have to distinguish whether we are talking about service programs or production programs, too.

Mr. ANDREWS. Yes.

Mr. AUGUSTINE. But where there is a sufficient volume of effort, that you perhaps can keep two organizations involved. Unfortunately, that is very often not the case, and so when you do go to these long-term contracts, you pay a price.

But as I say, my experience has been that you are well ahead to go to multiyear procurements in terms of cost, in terms of learning on the part of the supplier. And if it is something, you know, where you can afford to have another firm in the background, that is a useful thing to do. Unfortunately, I don't think you can always do that.

Mr. ANDREWS. Professor Schooner, I want to ask you a different question. I think you are justifiably alarmed about unfair criticism of contractors, painting with a broad brush, where the small minority who are doing something wrong taint the image of the vast majority who are doing something right.

Can you give us an example of a rule or practice that you think leads to the kind of timidity and lack of creativity that you cite in your testimony?

Mr. SCHOONER. I think maybe more than anything else, if we were just to take an example and look at the messages that we are seeing from the Defense Contract Audit Agency (DCAA) right now—historically, DCAA, when they found problems, their goal or their aspiration was to work with contractors to resolve the problems.

The message that they are getting today, the risk-averse approach, is rather than solve the problems, it is to refer them to criminal investigative units. That is not going to get the government more value for money. It doesn't solve problems. It just leads to openly hostile relationships. And it is fundamentally problematic.

Mr. ANDREWS. Do you think that there have been too many instances where there have been criminal referrals?

Mr. SCHOONER. I think that it is—it is always hard to say that we shouldn't be prosecuting criminals. I don't think there is any question about that. I think——

Mr. ANDREWS. Very hard to say that.

Mr. SCHOONER. Right. But let's take the more proactive approach. There always seems to be enough money for Inspectors General and auditors, but there never seems to be enough money to proactively avoid the problems in the first place.

This is what we learned in kindergarten—an ounce of prevention is worth a pound of cure. If we had invested the kind of resources up front in Iraq and Afghanistan in contracts professionals that we invested after the fact in auditors and Inspectors General—look at the size of the Special Inspector General for Iraq Reconstruction (SIGIR) and the Special Inspector General for Afghanistan Reconstruction (SIGAR). These are huge organizations.

Mr. ANDREWS. Right.

Mr. SCHOONER. Had we had contracting offices of that size at the beginning, we wouldn't have the criminals and the problems that we are dealing with now. So this is all about dealing with these problems proactively.

Mr. ANDREWS. You are right, and the panel's mission, in large part, is that—I will say when the next deployment occurs not if, because there always is another one—that we have in place a system that could learn the lessons of Iraq and Afghanistan and prevent the problems that we have had.

We, frankly, don't want any more deployments, but we live in the world of reality and expect that we will have them.

Mr. SCHOONER. Could I also just add one very brief thing?

Mr. ANDREWS. Just briefly, if you would, because I want to be sure the other members get time.

Mr. SCHOONER. I think that the point that Norm made is a very good one about dealing with long-term contracts. But again, one of the other things—if we can build up the acquisition workforce, we can put better incentives in the long-term contracts.

We can use incentive and award fees so that the contractor has significant incentive to perform well and disincentives to perform badly. Once again——

Mr. ANDREWS. I do think that is a creative way to solve the dilemma that I posed in my question, I agree with you, which is not so much a matter, I think, of the number of professionals we have, but the quality of their training and the sufficiency of their motivation and incentive, which gets me to Mr. Flynn's point.

I was very pleased—first of all, I appreciate your active involvement in our effort, and I was very pleased to read on page seven your position on finding fair evaluative mechanisms that could put employees into categories of good standing, superstars, and those not performing at acceptable level.

How many of these contracts, if you know, have you been involved in negotiating across the country thus far?

Mr. FLYNN. I would say that that type of system—you would find in the previous Veterans Affairs (VA) contracts, the Social Security contract, the Medicare contract. I am not—I don't believe very many DOD units have——

Mr. ANDREWS. How old are the contracts in Social Security, Medicare, VA, do you know? How long have they been in effect?

Mr. FLYNN. A good number of years, Mr. Chairman.

Mr. ANDREWS. We would be interested—I would just ask the staff to—and invite the panel as well—to collect some data on how they have worked out in those agencies, to see what the assets and liabilities of going about that is, because I do think that it is refreshing to hear your testimony that you are actively involved in

looking for a solution to this problem of proper motivation and fair treatment of people that are part of our team.

[The information referred to can be found in the Appendix on page 73.]

Mr. ANDREWS. Well, thank you.

And I would turn now to Mr. Conaway for his questions.

Mr. CONAWAY. I think I am—between Mr. Flynn and Professor Schooner—well, first off, what happens to the folks who are underperforming?

Mr. FLYNN. Well, the agency has three recourses. One is to reassign them, demote them, or terminate them, and in my experience, they have moved for the termination. The other two options usually are not considered——

Mr. CONAWAY. So they don't hand them off to somebody else? Okay. If you could include that in the information.

There is a story today that a high school in Rhode Island fired every teacher today because the school had just the most dramatically dreadful results of kids coming out—and then they go back and re-hire the few goods ones—whatever.

But, Mr. Flynn, if—why hasn't that professional workforce that you guys represent fixed these problems?

Mr. FLYNN. You mean the underachiever, Mr.——

Mr. CONAWAY. No, no.

Mr. FLYNN [continuing]. Conaway?

Mr. CONAWAY. I mean the whole—all the—we hear about the acquisition deal if everything is great under the GS scheme and all those things work perfectly, then why has that cadre of professionals not fixed the problems that we are talking about from 1969 through today?

Mr. FLYNN. From my perspective, Mr. Chairman, there are a couple of things. Number one is question of staffing. Clearly, they have not had enough people to do the job, and the workload has continued to go up.

The second piece is that, again, in my opinion, whether you are ordering guns or butter, the process is pretty much the same. But yet if you go to the different agencies, there is quite a bit of disparity in terms of grade levels.

And I don't know if that is because—it is not necessarily because of the classification system. It is just that decisions that individual agencies are making in terms of what they want to pay salary-wise for those services.

Mr. CONAWAY. Yes.

Professor, your thoughts? I mean, you are—part of it—you both, Mr. Augustine and Mr. Schooner, talked about the impediments to hiring seasoned veterans into the system and how difficult that is—any thoughts on how we blend the two, because we obviously want to protect people from unfair treatment.

But by the same token, we want to fire the folks who aren't doing the job they are supposed to be doing.

Mr. SCHOONER. I think as a premise, I just want to clarify one thing. It is actually remarkable what the existing acquisition workforce has been able to do over the course of the last two decades.

If you take any publicly available metric for how you would staff a procurement organization, the government is so woefully under-

staffed it is breathtaking. But we continue to have the best acquisition regime on the planet.

We have wonderful weapons. We have terrific support for our troops. I mean, again, even with all the criticism, if I just use the example of the Logistics Civil Augmentation Program (LOGCAP) contract, never before in the history of the planet has a military been able to project such potency, lethality, and sustainability anywhere on the globe with contractor support.

It is incomprehensible how many troops we can move and how well supported they are when they fight, and that is because we have an effective contract in place.

It has problems at the margin, there is no question, but the amazing thing is that the government is able to do all of the things it needs to do because it relies on contract support. And a very thinly capitalized acquisition workforce every day does amazing things for the government.

Now, I think the much larger issue is that we literally spent a couple of decades dealing with the classic tooth to tail mix. And there were strong messages from Congress and from the Administration that we needed a smaller military and therefore we should focus on trigger pullers, not shoppers. That was the Duncan Hunter message for many, many years.

Well, now we are paying the price for that. We don't have enough people to manage all the contractors that the government must have every day. But again, I think the important thing to take away from this—the people that we have—they may not be perfect.

They may never have been trained appropriately. And we may not have been able to implement all of the policies. But they are doing a remarkable job given the resources they have been given.

Mr. CONAWAY. Your observations on one other thing. We have got the program managers and folks who actually are evaluated based on how well the things that they do supervise do.

Is there a scheme that says, "All right, let's put in place an evaluation system that evaluates them separate and apart from the results of what they are trying to get done," so that you are looking at evaluation of the system itself—you have got a system that is supposed to work, and it has got to evaluate the—whether or not the contractor or the delivery system is working.

But do we properly evaluate the folks for how the—even though their program may fail, that may not be a reflection on them. It may be a reflection on something else. So are they evaluated properly?

Mr. SCHOONER. We should have Norm weigh in on this, too. But on program managers, I think one of the most important things—I think we all agree that we can have better incentive schemes for program managers.

But if you were going to isolate one problem you have to solve at the Defense Department with regard to the program manager workforce, it is that you got to leave them in place and let them manage the programs.

The last time that I was here with a senior DOD official, they were bragging about the fact that program manager retention was up to 23 months on a program. That is incomprehensible.

In the private sector people spend professional lifetimes guiding programs to success. Until we can do that, we will not be able to achieve what we need done in terms of program management.

And I am sure Norm has stuff to add on that, too.

Mr. AUGUSTINE. If I might, I would just add that in the private sector, we generally—if I might use an analogy to bull riding and the rodeo, you get your scores based on two things. One is how well you do, and one is how hard the bull bucked.

And if you have an easy job and do a great piece of work, you don't get that much credit. And so I think you can distinguish.

I would also, if I might, just add a footnote that with the exception of a few areas, I don't think the answer is to add more people. The answer is to have more experienced people in the job they are in. And the experience needs to be relevant to the job they are doing.

If I might quote Dave Packard again, who I think so highly of, it used to trouble him greatly that we would bring the commander of a destroyer flotilla who had done a terrific job at sea, and put them in charge of the F–111 program. And they would ruin their career and usually ruin the program.

It wasn't fair to them. It wasn't fair to the program. It wasn't fair to the taxpayer. And it sure wasn't fair to the future pilots. And I think that is part of our problem today, that we put people in jobs that they are just not equipped to handle.

Mr. CONAWAY. Thank you, Mr. Chairman.

Mr. ANDREWS. Thank you very much.

Mr. Cooper is recognized.

Mr. COOPER. Thank you, Mr. Chairman.

How do we keep program managers in place for longer than 23 months? What steps are required to do that?

Mr. SCHOONER. This is all about leadership and incentives. Now, I mean, to some extent, you could argue—and again, I think Norm just suggested it before.

There is a perception particularly in the military organizations that in order to have a program moving forward you need someone with lots of color on their chest to come in so that they can project leadership and they can make the good sale up here on the Hill so that the funding keeps going on.

But at the end of the day, what the private sector does much better than the government on this is they develop the right talent within their fields and respect people within those fields. So the message isn't that I need to take a warfighter and turn them into a program manager so that it looks like my program has leadership.

We need to value the people who come up through the organization, and then we need to incentivize them to stay by basically developing them so that they can rise up and be important contributors to the system. It is a totally different cultural approach.

And I can assure you, in the private sector, the program managers who are the civilian or the private sector equivalent with whom the Defense Department program managers deal every day are incentivized completely differently and are far more incentivized to have those programs succeed than their government counterparts.

We can solve these problems.

Mr. COOPER. So is the problem, in order to appeal to Congress, turning a warfighter into a program manager? Or is the real problem that that temporary program manager really wants to go back to being a warfighter very quickly, so he or she doesn't stay in that position very long?

Mr. SCHOONER. I think it is actually a combination of both. But I can just tell you a quick anecdote. As a former Department of Justice litigator, I never represented a program manager in a deposition who didn't tell me in advance that he or she was never given the opportunity to attend the Defense Systems Management College program management course before they took over the program, because they just didn't have time.

So if the marquee course for preparing program managers is something that does not merit the time of the successful kind of people we want to put in charge of the programs, we have got a pretty big disconnect going on there.

Mr. COOPER. What would be an appropriate minimum period of time for a program manager to——

Mr. AUGUSTINE. May I try to address that one?

Mr. COOPER. Sure.

Mr. AUGUSTINE. The practice in the industrial world, which I think is reasonably good in this area, is not to keep a program manager in place based on time but, rather, on the phase of the program.

And a person who may be a very good program manager in a development program probably isn't a very good program manager in the production program, or in the original tooling program, or in the prototype phase.

We used to in our company refer to—we had bear catchers, bear skinners, and people who liked to sit around the campfire and talk about bears, and——

[Laughter.]

And we—so I think the important thing is to leave people in place from one phase of a program to the next phase so that you have somebody who is equipped.

Mr. COOPER. In service records, is their service as a program manager linked to the overall success, or lack thereof, of the program, or is that just a temporary assignment? You check your ticket, punch your ticket and then move on?

Mr. AUGUSTINE. I think that is another major difference. In the private sector, to succeed as a program manager, which is a really tough job, is probably one of the best ways to move up in an organization.

In the government, the first thing you want to do is get out of program management and get out into a foxhole.

Mr. COOPER. Because that is the best way to be promoted.

Mr. AUGUSTINE. Absolutely. And of course, that brings up the whole question, should you have civilian program managers instead of military program managers, which is a major debate in its own right.

Mr. COOPER. Which side do you come down on on that debate?

Mr. AUGUSTINE. By and large, on the military program manager.

Mr. COOPER. Because they are able to follow through?

I have been worried that while after Goldwater-Nichols we had joint warfighting, we still don't have joint procurement, and sometimes parochial interest can prevail.

Mr. AUGUSTINE. That is true.

Mr. COOPER. What should we do about that?

Mr. AUGUSTINE. Well, you are talking about a cultural issue, and usually the way to deal with cultural issues like that—and this is probably very hard to do in the military; maybe not in the civilian part of procurement—but is to move people around so they have to live in the different elements.

They don't view themselves as—but I guess the joint assignments are that way, to a degree, that you don't view yourself as coming from one element of an organization but, rather, have experience broadly.

Mr. COOPER. I see my time has expired, Mr. Chairman. Thank you.

Mr. ANDREWS. Well, we are glad you got to the "bare" essentials there with——

[Laughter.]

Mr. AUGUSTINE. I apologize for that, Mr. Chairman.

Mr. ANDREWS. No, I apologize for that. [Laughter.]

Mr. Coffman is recognized.

Mr. COFFMAN. Thank you, Mr. Chairman.

Mr. Augustine, one point that Mr. Cooper raised I want to go into, and that is we have often discussed the challenges of military program managers and the fact that it is an assignment for them.

And if they are a naval officer, they want to go back into the fleet. If they are a ground commander in the Army or the Marine Corps, you know, they want to return back to a command, because at the end of the day that is going to get them promoted.

And I know we have done some work inside the Armed Services Committee, I know in the Seapower and Expeditionary Forces Subcommittee, to—I think the—there was a shipbuilding program where we insisted that there be one military program manager for the duration of the program. I don't know how that is going to affect that individual's career.

But could you go into more detail as to why you think it is important to have military versus civilian program managers? Because certainly, the military could always—is always going to be there to have input into the program as it progresses.

Mr. AUGUSTINE. Well, you touch on a very difficult issue, and as I said, I come out rather narrowly on the side of the military program manager.

And I do that in part because we are building equipment for the military. The military understands the system. Also, they will have much more, I think, respect and much more impact in dealing with a military organization.

Also, frankly, it is very easy to get rid of a military program manager who is not performing. It is very difficult to get rid of a civilian program manager in the government if they are not performing. And I have been—had the misfortune of having to try to do both. There is a big difference.

I think the key is not so much whether you wear a uniform or not, but whether you have been given the opportunity to really be experienced.

And we do have people—we have a Chaplain's Corps, we have the Judge Advocate Generals (JAG), where those people understand they will probably never be Chief of Staff or Chief of Naval Operations (CNO). But they know if they do their job well, they can move to the top of their organization, which is viewed as a very important thing.

Somehow we haven't conveyed that in the acquisition area, partly, as has been pointed out, acquisition is viewed as when anything goes wrong, it must be for criminal intent.

Mr. COFFMAN. You mentioned a concern about, and I share your concern about, the declining industrial base in the United States. And certainly, we can go into a lot of reasons for that—tax, regulatory policies and things like that.

But let's focus on one specific issue, in that some of the contractors have mentioned to me the limitations in terms of their ability to export their technologies that they develop, that other countries don't have those restrictions.

And have we gone simply too far on those restrictions, and we need to loosen them up so that our industrial base has a broader market than just the United States Defense Department?

Mr. AUGUSTINE. I think that is absolutely the case. Most of our export regulations were written many, many years ago in a world where we controlled the technology——

Mr. COFFMAN. Okay.

Mr. AUGUSTINE [continuing]. Where you really could build a border around the country, neither of which are true today.

Mr. COFFMAN. Okay.

Mr. AUGUSTINE. I would commend you—I chaired a Commerce Department study on this about a year ago, and I would commend that to you.

Mr. COFFMAN. Okay.

Mr. AUGUSTINE. Also one by General Scowcroft.

Mr. COFFMAN. Thank you, Mr. Chairman. I yield back.

And, Mr. Chairman, I just want to say that that is something that—you know, I know it is sort of off—it may be a little off the reservation of what the committee—but I think it is something that we ought to look at.

Mr. ANDREWS. If the gentleman would yield, I don't think it is off the reservation.

Mr. COFFMAN. Okay.

Mr. ANDREWS. I think it is an excellent point, that there are both national security and economic aspects to the export control debate. And of course, the economic concerns are implicitly a national security concern as well.

The obvious national security concern is we don't want to share sensitive intelligence with someone who may not be friendly to us. But the other national security concern is that if intelligent export policy helps to sustain our industrial base, it improves our national security.

And I think that is something we really should address in our report.

I would like to thank the witnesses and actually impose upon them another duty, if I could. Mr. Conaway and I appreciate the efforts of the staff, which has done an extraordinarily good job in creating a draft report that summarizes our work and makes recommendations.

That draft report was distributed to the members of the panel yesterday. The members of the panel will be meeting next week to review it and hone it. And Mr. Coffman and I had a discussion earlier today. I would note to the staff members of the other panel present, more suggestions are absolutely welcome. That is why it is called a draft.

But we would like to give you that draft report, the three of you, so that you would then have a homework assignment of taking a look at it and giving us some input. The panel is going to meet in a business session next week to review the draft.

We are then going to have public circulation of the draft and another hearing of the panel where we are going to have Defense Department and other witnesses comment on it. But we would welcome your specific comments as well as we go forward.

I think the perspectives that you have given us here today are very valuable. What we have learned in our year working on this is that the superficial questions are rather easily answered. But when you get below the superficial level, these are very complex issues. But I do think they are solvable issues.

One recurring theme has been leadership and the quality of the workforce. I think we have heard today from all three witnesses that if you make the proper investment in experience and skill, if you motivate and reward experienced and skilled people, if you empower them to do the things that need to be done, we can make improvements that would then turn the whole system around.

The other lesson that I think we have learned is that when you are purchasing $300 billion a year worth of goods and services apart from major weapons systems, almost $300 billion a year, everything ranging from cases of water to elaborate pieces of software, that one size most assuredly does not fit all.

And we certainly will not be rendering a report that suggests that one procurement system or one set of rules is the way to do this.

I will tip our hand a little bit and tell you that my own bias is that more rules and more proscriptive mandates from the Congress is—we are just going to exacerbate the problem, not solve it.

And so what we are looking for—to do here, a way to do—is to give intelligent principles and concepts, then put in place intelligent, experienced people to execute those concepts, and then reward them when they do.

And I think if I could summarize what we are going to propose, that is about it. So if we can do that with your good graces, we would like that. So I would invite you to take a look at the draft report. It will be publicly available soon. And we would welcome your input.

Mr. Conaway, did you have any closing comments?

Ladies and gentlemen, thank you.

With that, the hearing is adjourned.

[Whereupon, at 8:48 a.m., the panel was adjourned.]

A P P E N D I X

FEBRUARY 25, 2010

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

FEBRUARY 25, 2010

Defense Acquisition Reform Panel Chairman Rob Andrews

Expert Perspectives on Managing the Defense Acquisition System

and the Defense Acquisition Workforce

February 25, 2010

Today the Panel approaches the end of its work and we are beginning to formulate our findings and recommendations which we will report to the full committee. This marks the Panel's 12th hearing since we were appointed by Chairman Skelton and then ranking member John McHugh in March of last year.

In these hearings, the Panel has found that while the nature of defense acquisition has substantially changed since the end of the Cold War, the defense acquisition system has not kept pace. The system remains structured primarily for the acquisition of weapon systems at a time when services represent a much larger share of the Department's acquisitions, and the system is particularly poorly designed for the acquisition of information technology even though we are now in the information age.

Even in the acquisition of weapon systems, the Department's historical strength, the system continues to generate development timeframes for major systems measured in decades, an approach which has resulted in unacceptable cost growth, negative effects on industry, and in too many cases, a failure to meet warfighter needs.

The Panel has found that there is little commonality across the defense acquisition system. The acquisition of weapon systems, the acquisition of commercial goods and commodities, the acquisition of

services and the acquisition of information technology have very diverse features and challenges.

In a few areas, however, the Panel has found common issues. Across all categories of acquisition significant improvements can be made in: managing the acquisition system; improving the requirements process; developing and incentivizing the highest quality acquisition workforce; reforming financial management; and getting the best from the industrial base.

The Panel began with the question of how well the defense acquisition system is doing in delivering value to the warfighter and the taxpayer. For most categories of acquisition, only anecdotal information exists about instances where the system either performed well, or poorly. Even where real performance metrics currently exist, they do not fully address the question. The Panel continues to believe that real metrics are needed. The Panel has also heard that challenges with the requirements process are a major factor in poor acquisition outcomes. The requirements process for the acquisition of services is almost entirely ad hoc. The process for developing requirements for the acquisition of weapon systems is overly cumbersome, lacking in expertise and capacity, and subject to requirements creep.

There is no doubt that the Department needs an acquisition workforce that is as capable as its advanced weapon systems. To achieve this, the Department requires flexibility to efficiently hire qualified new employees, and to manage its workforce in a manner that promotes superior performance.

The Department must develop new regulations for the civilian workforce which include fair, credible, and transparent methods for

hiring and assigning personnel, and for appraising and rewarding employee performance.

Also underlying the success of the defense acquisition system is the Department's financial management system. The Panel is concerned that the inability to provide accurate and timely financial information prevents DOD from adequately managing its acquisition programs and from implementing true acquisition reform.

Finally, the Panel has heard that the Department can enhance competition and gain access to more innovative technology by taking measures to utilize more of the industrial base, especially small and mid-tier businesses. And in managing that industrial base, that the Department is best served when it deals with responsible contractors with strong business systems.

We look forward to hearing from today's witnesses about these topics to get their expert views on how these problems can be solved. I now turn to my friend, Congressman Mike Conaway of Texas, for his opening remarks.

Statement of Rep. Conaway

Hearing of the

Defense Acquisition Reform Panel

"Expert Perspectives on Managing the Defense Acquisition System and the Defense Acquisition Workforce"

February 25, 2010

Good morning, Mr. Chairman, ladies and gentlemen. I would like to thank our witnesses for taking time out of their busy schedules to be with us this morning. I'd also just like to reiterate what the Chairman has said about the draft panel report that we are in the process of completing. We have received excellent recommendations and I would just encourage our members that we are not past the point of 'good ideas" so please provide additional feedback if you have any.

Again, welcome to our witnesses and I look forward to your testimony.

Thank you Mr. Chairman.

TESTIMONY

OF

NORMAN R. AUGUSTINE

BEFORE THE

DEFENSE ACQUISITION REFORM PANEL

HOUSE ARMED SERVICES COMMITTEE

ROOM 2261 RAYBURN HOUSE OFFICE BUILDING

FEBRUARY 25, 2010

THE DEFENSE ACQUISITION ENTERPRISE CHALLENGE

Mr. Chairman, Mr. Cooper, and members of the Defense Acquisition Reform Panel, thank you for inviting me to participate in today's hearing on Defense Department acquisition challenges. I am Norman Augustine, representing Business Executives for National Security, or BENS, a non-partisan organization comprised of individuals with business backgrounds in the commercial sector (and a few from the defense sector) that was created in 1982 to provide advice and support to the government in areas wherein its members possess particular experience and expertise.

Last year—2009—I chaired BENS' Task Force on Defense Acquisition Law & Oversight. We convened a group of experienced business leaders and former government officials* invited by then Deputy Secretary of Defense Gordon England and leadership of both Armed Services Committees—the Honorable Carl Levin and the Honorable Ike Skelton—to share their views on how best to reverse the spiraling cost and lengthening schedules of producing America's defense systems and delivering world-class services.

In July we issued a report containing 25 implementing actions for Congress and the Department of Defense to consider.** At about the same time the Congress passed the Weapons System Reform Act of 2009. We applaud that legislation, because it seeks to eliminate some of the fundamental weaknesses of our current system.*** Similarly, I will seek to point out where our recommendations extend and build on the foundation laid down in that recent legislation.

First, let me put a business perspective on the practice of defense acquisition.

Our system of government—established on a foundation of checks and balances crucial to preserving our democratic political traditions—stumbles when the same principles are applied to business functions. The inefficiencies overwhelm the benefits. This is because defense acquisition has much more in common with everyday business functions than it does with traditional government functions such as establishing policy, creating laws and regulations, and enforcing them. Today, government too often appears to place more emphasis on not letting anything go wrong than on assuring that most things go right. In doing so, it has produced an acquisition process that is agonizingly ponderous to manage and correspondingly slow to produce desired outcomes. This focus on process contrasts sharply with the demands of the business world, particularly in the high-tech arena where, for example, the Intel Corporation has stated that over 90 percent of the revenues it records on the last day of any fiscal year are derived from products that did not even exist on the first day of that same year.

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* See List of Task Force members at Appendix 1.
** An abbreviated list of recommendations is at Appendix 2.
*** See The Canonical acquisition Program: A Cautionary Tale at Appendix 3.

While defense acquisition has far more in common with business than with traditional governmental functions, it is not easily recognized as a form of business. It consists of a monopsony run by the world's most powerful customer that makes the rules and enforces them. Yet, embedded within this monopsony are occasional monopolies in the private sector affecting specific products. The firms operating in this environment are expected to compete not only against each other but against the myriad of commercial firms around the globe that seek equity and debt from the same financial sources.

The findings and recommendations offered in the BENS report are based on a collection of fundamental business principles embraced by the Task Force. These include:

- Talented, dedicated, experienced leaders are the underpinnings of success; processes and organization charts are altogether secondary
- Goals must be clear and, to the greatest extent possible, measurable
- Clarity of individual responsibilities is essential—including assuring individual consequences...both positive and negative
- Authority must match responsibility
- Means must match ends
- Authority, responsibility and accountability must be delegated wherever practicable—and results monitored
- Organizational and individual overlaps and interfaces must be minimized
- Acquiring the skills sets and often unique expertise required for the acquisition of services and Information Technology must become an institutional goal

How, then, should defense acquisition be approached as a business?

First would be to move the enterprise to a new level of organizational equilibrium. Put another way, it means aligning the interests and incentives of all enterprise stakeholders.

Second, reform would begin to create an environment where, rather than striving to become error-free on the process side, the acquisition system is aimed at achieving successful outcomes—that is, providing users what they need, when they need it, and at a cost they can afford.

Third, would be to open lines of communications between DoD and its suppliers—the defense industrial base in particular as well as the larger commercial sector. The private sector operates as a community of buyers and sellers. In defense acquisition such relationships are "arms length" and legally restrained.

Switching now to specific findings and recommendations, the Task Force concluded that the *process*, not the *product for the warfighter*, has become the principal focus of the acquisition system. Specific problems tormenting the system end-to-end include requirements creep, funding instability, poor initial cost estimating, immature technology and the lack of flexibility to solve problems. These are compounded by the fact that many individuals with little or no accountability can profoundly impact funding, schedule, personnel assignments and administrative demands. Too often the problems that result are not uncovered until operational testing is underway—an activity that frequently overlaps the production tooling effort and thereby greatly increases the cost of correcting deficiencies.

We found that there are three overarching categories of shortcomings to which acquisition failures are largely attributable. These are:

- **Requirements: Linkages between the requirements determination, budgeting and acquisition processes**. Today's requirements process is a highly formalized rather sterile pursuit driven by perceived needs of warfighters, accommodated by engineers, with the suppliers of financial resources generally not consulted. It needs to become an iterative process involving warfighters who understand the nature and needs of combat, engineers who understand the limits of technology, and financial experts who can accurately estimate costs and assess the impact of future budget scenarios.
- **Personnel: Constraints to defense acquisition workforce excellence**. Today, the government too often finds itself with minimally experienced and transient individuals leading major acquisition programs, able to attract new people only after long delays, unable to couple rewards to performance, and with many senior leadership positions simply unoccupied. Talented and dedicated people can often overcome a poor organizational structure or incoherent policies, but the opposite is never true. When qualified people are combined with sound organizations and practices, success is virtually assured. The acquisition process, unlike most government pursuits, is a business function. In most instances it demands the skills and talents that are far more common to the business world than to government and military operations.
- **Execution: Adherence to program execution processes aimed at satisfying the needs of the warfighter**. Today, programs are begun without resources to address contingencies, with often unproven technology, poor estimates of production volumes, and essentially no funding flexibility—and are revised frequently. Programs should not be initiated until: 1) the requirement is clear; 2) funding, including adequate reserves, is available; 3) the technology is proven; and 4) the system concept is well defined. It should be difficult to start new programs and it should be difficult to change or stop them, once started, absent truly compelling reasons. Failure to respect the latter has historically led to large sums of money wasted on half-completed programs found to have problems… so as to chase new opportunities presumed not to have problems.

Let me discuss each of these findings in more detail:

REQUIREMENTS DETERMINATION

The initial step in the acquisition process is the establishment of the requirements for the goods or services to be provided—and a bad beginning nearly always portends a bad ending. A major problem with requirements definition is implicit in its very name: "*requirements*"—which seems to imply a certain sacrosanct quality or rigidity. A better term would be "capabilities," a term that more readily allows for tradeoffs as additional information is gained concerning cost, schedule and technical feasibility.

The principal shortcomings of the existing requirements process are that: 1) it does not couple needs for specific future systems to an overall national defense strategy; and 2) requirements are largely determined by the military services without realistic input as to what is technically feasible from an engineering perspective, and without adequate input as to what is affordable from a planning, programming and budgeting perspective. As a result, performance overshadows cost and schedule, and affordability is rarely considered at all. Remarkably, in this construct reliability is rarely treated as a performance measure.

It is important that the Combatant Commanders (COCOMs), who are indeed the ultimate capability users of the products of the acquisition process, have an important role in requirements definition. However, the COCOMS are extremely focused on current operations, particularly in wartime, and in general do not possess systems engineering enterprises, future technology assessment capabilities, or cost analysis expertise. There needs to be a balance struck between determination of short-term capabilities where the COCOM's views should be preeminent, and the long-term force-shaping developments, which can be conducted most responsibly under the guidance of those with enduring institutional responsibilities, the Service Chiefs.

ACQUISITION WORKFORCE

Today's acquisition workforce is in many areas highly competent, but understaffed in comparison to its workload. It is also organizationally misaligned to permit it to feel professional and appreciated, and it faces an unprecedented loss of expertise due to aging and the pull of private sector opportunities. Fixing workforce problems is a leadership issue far more than a process issue. In this regard the Packard Commission stated that (acquisition leadership should have) "a solid industrial background." Unfortunately, individuals with such backgrounds cannot—or will not—accept positions in the government acquisition process. To restore acquisition workforce to excellence balance must be achieved in proportion to the "three essential Rs": requirements, resources, and—most importantly—the right people. There are many good people in the system, but that does not make them the right people. In optimizing the management of the skill sets, we will generate the flexible, innovative,

cost effective workforce needed for the 21st century. The bottom line for the acquisition enterprise is to recognize and reconstitute a professional acquisition workforce working side-by-side with its contractor support—and, most importantly, its operational counterparts.

PROGRAM EXECUTION

Most of today's program execution failures are already well documented and well examined. They tend to be the result of a system that substitutes oversight for insight; confuses management with rules; is risk-averse and failure-intolerant; is unnecessarily adversarial; is too often hidebound and encrusted in layers of legislative and policy guidance; and is administered by bureaucracies better suited, if at all, to a slower-moving, more resource-rich era.

As a result of imperfect law and misplaced oversight the acquisition system is at odds with best practices in the business world: it possesses insufficient systems engineering capability; cost estimating that injects unrealistic optimism into early program definition; depends on many individuals with limited relevant experience; and provides little management flexibility to fix problems as they occur. And when dealing with development—that is, providing something that has never existed before—problems *will* occur, even in the best -managed programs.

RECOMMENDATIONS

When prescribing modifications to the existing system it is important to recognize that one-size does not fit all. Some acquisitions are more urgent than others, some are of more modest cost than others, some contain less risk, and some are of a fundamentally different character (product upgrades, the acquiring of commercial items or services, international programs, and the procurement of information technology). Each acquisition needs to be treated in a fashion befitting its nature—making it important to have a "fast-track" available for the prosecution of some programs. Past developments have on occasion been "excused" from the regular acquisition process, but this was usually because they were considered too important to entrust to "the system." (The latter category has included classified space programs, gunships during the Vietnam War, counter-IED measures in Iraq, and others.)

In general, Congress should insist on, and DoD should adopt basic, proven business practices relating to specific aspects of managing the acquisition process. These fundamental practices generally do not require changes in law:

- Conduct program reviews only at major milestones or when significant escapements from plan have occurred
- Provide sufficient funds and schedule time in program plans to assure intensive testing and appropriate training and the provision of logistics support

- Prohibit systems engineering contractors from participating in program execution, other than in their role as the systems engineering contractor, in order to avoid conflicts of interest
- When adopting commercial products, make changes only for absolutely the most compelling reasons
- Invest substantially in basic and applied research, focusing on potential breakthrough areas even though substantial risks may be present
- Establish development planning functions to coordinate the concept development and refinement phase of all programs to ensure that the capabilities required by the country as a whole are considered and that interoperability is addressed
- Produce end-items at an efficient rate unless a conscious decision is made that a warm base must be maintained. In the latter instance, the cost of such should be categorized as the premium on an "insurance policy," not as a cost overrun

However, the Task Force believes that specific changes are needed to fundamentally correct the system's deficiencies. **In some cases, legislation will be necessary and the Task Force indicates where that may be required; in others, Congress needs to establish its expectations for the acquisition system and through oversight ensure that such change occurs.**

The report's major recommendations are these:

REQUIREMENTS DETERMINATION
It is recommended that the requirements process be modified in a fashion that permits greater emphasis on affordability, schedule compatibility and technical feasibility, and that responsibility for establishing requirements be segregated according to time-urgency.

ACQUISITION WORKFORCE
The government personnel management system should be modified to assure that key positions in the acquisition process are filled by individuals who are knowledgeable and experienced in acquisition, and who remain in place long enough to at least achieve major intermediate milestones (e.g., completion of development, establishment of rate-production, etc.).

PROGRAM EXECUTION
The acquisition process should be modified to incorporate relevant practices widely acknowledged in the commercial sector as essential to successful program execution.

The report itself contains 25 implementing actions designed to achieve the reforms in these three areas (See Appendix 2).

CONCLUSION

Congress in its constitutional role to raise and support an army and navy, *et seq.*, sets the expectations and tone for the entire enterprise—and must be at the forefront of any change. Once established either by law or sense of Congress, the acquisition enterprise must follow the resulting regulations and policies rigorously, but with common purpose.

The Task Force believes implementing its recommendations will lead to fundamental changes in the way the enterprise acquires defense goods and services. The Task Force urges Congress to adhere to the principles we have defined and vigorously pursue its oversight of the process to ensure that it embeds and promotes the equities of all members of the enterprise and, above all, serves the needs of the warfighter. For reforms to be implemented successfully, the Task Force believes that consistent leadership, accountability and effective oversight must prevail across the entire enterprise—Congress, the Defense Department, and industry.

We have a Defense Department today that is led by extremely capable individuals who are well aware of the problems I have cited. This affords an opportunity where, working with Congress and the private sector, an acquisition system can be built that, unlike today's, is *greater* than the sum of its parts.

An appropriate rallying cry is the statement of David Packard, who conducted the seminal study[1] of acquisition reform over 20 years ago: "We all know what needs to be done. The question is why aren't we doing it?"

Thank you for inviting me to testify before your panel today.

[1] The President's Blue Ribbon Commission on Defense Management (The Packard Commission), Final Report June 30, 1986. http://www.ndu.edu/library/pbrc/pbrc.html

Appendix 1 - Task Force

Norman R. Augustine (Chairman)
Gary W. Hart (Vice Chairman)
Warren B. Rudman (Vice Chairman)

Edward C. "Pete" Aldridge, Jr.

Michael J. Bayer

Raphael Benaroya*

Denis Bovin*

General Charles G. Boyd, USAF (Ret.)* (ex officio)

Admiral Vernon E. Clark, USN (Ret.)

Mark Gerencser*

Admiral Edmund Giambastiani, USN (Ret.)

Jamie S. Gorelick

John Hamre

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General Gregory S. Martin, USAF (Ret.)

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Appendix 2 - Implementing Actions

REQUIREMENTS DETERMINATION

It is recommended that the requirements process be fundamentally changed to emphasize early consideration of affordability, schedule compatibility and technical feasibility, and that responsibility for establishing requirements be assigned according to time-urgency.

- *Modify the existing requirements establishment process to make it highly iterative and interactive as opposed to declaratory, but with strong inputs from the systems engineering, cost analysis and program planning and budgeting communities. (Implementing Action R-1)*
- *Reconstitute a strong systems engineering capability within each of the Military Departments; i.e., within the Service Chiefs' chain of responsibility. (Implementing Action R-2)*
- *Legislate Executive Branch reconciliation of the logical sequence and timing in development of the national strategy and its related military planning documentation so that they guide, rather than merely affirm, the development of capabilities-based assessments. Require the major decision support systems in the Department to harmonize the relationship between national security strategy, military strategy, requirements determination and fiscal constraints. (Implementing Action R-3)*
- *While the 1986 Goldwater-Nichols legislation has proven highly effective in enhancing joint Service activities, it should nonetheless be modified to qualify the current role of the COCOMs in determining requirements. The modification should assign responsibility for near-term needs to the COCOMs and for long-term, sustaining needs to the Service Chiefs (and Defense Agencies, as appropriate). In each case the "other" party should provide input but not have primary responsibility for the preparation of requirements. In either case, it should be the responsibility of the lead organization to assure operational compatibility among the Services for all joint items, working through the joint requirements organizations. (Implementing Action R-4)*
- *Establish an authority led by the COCOMs for near-term projects and by the Service Chiefs for long-term programs. The purpose of the authority is to conduct tradeoffs and, where appropriate, modify requirements as additional information is gained on cost, technical risk, schedule and external factors (e.g., threat changes) during the Pre-Milestone A (Material Solutions Analysis Phase). (Implementing Action R-5)*
- *As a prelude to defining requirements, make explicit consideration of a time-value in fielding capabilities. (Implementing Action R-6)*
- *When establishing requirements for new programs, appropriate capacity should, when practicable, be provided for future upgrades (space, weight, power, etc.). In seeking new or additional capabilities, preference should be given to upgrading existing systems as opposed to initiating all-new systems. Upgrades should be introduced in discrete "blocks," not in a piecemeal fashion. An aggressive prototyping program should be maintained to build and test non-production prototypes that offer significantly enhanced capabilities (perhaps implying unusual risk). This would have the additional benefit of preserving difficult-to-rebuild design teams in periods when all-new developments are not being actively pursued. (Implementing Action R-7)*
- *The government should strengthen the communication of its needs to the industrial sector and encourage the exchange of technical information between the private sector and the government within the bounds of security and competitive propriety.*

It is the private sector that provides the overwhelming share of the goods and services used by the government and owns most of the nation's research, development and production assets. (Implementing Action R-8)

ACQUISITION WORKFORCE

The defense acquisition personnel management system should be modified to assure that key positions in the process are filled by individuals who are knowledgeable and experienced in acquisition, and who remain in place long enough to at least achieve major intermediate milestones (e.g., completion of development, establishment of rate-production, etc.).

- *Assign to the Service Chiefs responsibility for establishing, managing and maintaining a highly competent acquisition workforce, including education, training, career path development and succession planning—the latter is rarely done today in any institutional fashion. Appropriate staffing standards should be created for all critical positions. (Implementing Action P-1)*
- *Legislation should be established that streamlines the hiring and rewarding of key acquisition personnel, including providing appropriate compensation and other forms of incentives. Authority to quickly employ qualified individuals as well as to dismiss individuals who are not performing in their assigned responsibilities should be vested in the Secretary of Defense. While the intent of government ethics regulations is to be applauded, those aspects that unduly discourage individuals from accepting government employment (extensive paperwork, financial burdens, redundant security clearance processes) should be reevaluated as to their necessity. (Implementing Action P-2)*
- *Amend the Goldwater–Nichols legislation to reinstate the Service Chiefs in the chain-of-responsibility over the Program Executive Officers (PEOs) and Program Managers (PMs). Program Managers are the heart of the defense acquisition process and should be granted commensurate authority. They should be required to have corresponding training and experience. Career paths should be established that permit program managers and other key personnel to remain in their positions at least from one major milestone to the succeeding major milestone. Service in the acquisition process must not damage to a military career. (Implementing Action P-3)*
- *Establish standards for workforce skills and attention to detail for service contracts and information technology (IT) programs that are equivalent to those required for major weapon systems. (Implementing Action P-4)*

PROGRAM EXECUTION

The acquisition process should be modified to incorporate relevant practices widely acknowledged in the commercial sector as essential to successful program execution.

- *Employ a set of system acquisition processes tailored to match capability development and implementation durations to the threat-response cycle and urgency of operational needs (currently permitted in the DoD 5000-series documents). Revisit the dollar-value of the program as the sole criteria associated with designating a Major Defense Acquisition Program (MDAP). (Implementing Action E-1)*
- *Sustain development planning capabilities throughout a system's life to permit periodic insertion of new technology. Related systems engineering capabilities should be consolidated in the Services and resident in the program offices throughout the system lifecycle. (Implementing Action E-2)*
- *Do not initiate Milestone B (Engineering and Manufacturing Development) until: 1) the need is firm; 2) the system concept is clear; 3) the necessary funds are likely to be available throughout the proposed effort; and 4) the technology is proven. Do*

not enter serial production until operational testing is satisfactorily completed, including reliability demonstration. (Implementing Action E-3)

- *Establish major program milestones and measures of success and approve advancement past milestones only when such measures are satisfied. Systems tests normally should not begin until key component tests have been satisfactorily completed; and low-rate initial production normally should not be initiated until key systems tests have been satisfactorily completed. Whenever feasible, properly monitored development tests should be used to augment operational tests in order to reduce costly, redundant testing. (Implementing Action E-4)*
- *Reinforce reliability as a bona fide performance parameter as current regulation requires. Reliability should be considered to be on a par with such performance parameters as range, payload, accuracy, etc. This will demand substantial component environmental testing as well as extensive system tests. (Implementing Action E-5)*
- *Delegate primary responsibility for the execution of a project to the Program Manager, subject to periodic review by a highly limited number of senior officials within the chain of command. (Implementing Action E-6)*
- *Amend Goldwater-Nichols legislation to reinstate the Service Chiefs in the chain of responsibility for executive management of acquisition programs. (Implementing Action E-7)*
- *Grant authority to the appropriate configuration steering board to modify requirements, as appropriate, when new information becomes available during development. It is emphasized that the intent of this recommendation is to adapt requirements to evolving realities, not to open the floodgates to an avalanche of additional requirements. (Implementing Action E-8)*
- *Provide resources to deal with contingencies. Funding reserves should be provided in all program plans, sized according to the risks entailed. Backup technical approaches should be provided for risky components, and plans should be prepared for the identification, amelioration and monitoring of program risks. (Implementing Action E-9)*
- *Maintain program stability: minimize changes to requirements, funding, schedule and personnel when brought about by external forces. Fund programs incrementally from major milestone to major milestone rather than on a year-by-year basis. (Implementing Action E-10)*
- *Maintain competition among industry suppliers to the greatest extent possible—recognizing that in a few cases (e.g., small buys of items requiring major tooling expense) competition may be inappropriate. Under the latter circumstances it may still be possible to compete components or subsystems. When conducting competitions, past performance and capability should be important considerations, particularly as they relate to specific individuals assigned to the project at hand. Independent (of both the contractor and the project office) government-performed cost assessments should be generated to accompany all contractor proposals. (Implementing Action E-11)*
- *As current law provides, appropriate contract types should be used for all acquisition pursuits: fixed price instruments for work whose scope is well-defined and cost reimbursable instruments (including incentive- and award-fee types) for work that cannot be precisely defined, such as research and development. Multi-year fixed-price contracts should be used for production procurements to the greatest extent possible but only after a proven data package is available. (Implementing Action E-12)*

- *Continually assess adequacy of the future defense industrial base and take appropriate actions to maintain its ability to support the nation's military needs. (Implementing Action E-13)*

Appendix 3 - The Canonical Acquisition Program: A Cautionary Tale

A group of individuals who served their country with distinction in combat is assigned to define requirements for the next generation of a much-needed item of military equipment. Wanting to assure success for U.S. and allied forces in any future conflict and knowing that the item must perform for many years, the group establishes demanding requirements. The engineers, excited by the technical challenges implicit in the requirements, and hoping to substitute technological capital now for troop fatalities later, design a responsive piece of equipment.

Intense but healthy competition ensues among contractors seeking to develop and produce the new item, each needing to win the contract due to the immense pressures of the financial markets in which defense firms, operating in a monopsony, must vie against purely commercial firms for shareholders and access to debt. Each bidder is optimistic that its attractive cost and schedule estimates will win the work. A winning contractor is finally selected by the government, but must endure a one-year delay before beginning work while protests submitted by losing bidders—each of which finds in the labyrinthine Request for Proposal what they believe to be legitimate reasons they should have won instead—are resolved.

Work on the project finally begins, but within a year the Program Manager discovers that the technology needed to meet the established requirements is not yet fully available. Congress had previously declined to appropriate contingency funds for the contract or to pay for schedule slack, so it takes nearly two years to obtain additional resources to bring the technology to maturity. The Program Manager reluctantly proposes a schedule slip—even though this will substantially raise overall costs because of the need to keep the physical plant open and the personnel associated with the project on payroll for a longer time. The senior Defense Department executives overseeing the acquisition process, many of whose positions will be occupied for only a few years by individuals with limited on-the-ground R&D management experience, approve the schedule change. (Well-intentioned conflict-of-interest rules and other obstacles had discouraged individuals with requisite experience from accepting the government positions they had been offered.)

As the development effort stutters and stalls, unforeseen new military threats force modifications in the original requirements for the piece of equipment. It soon becomes apparent that the projected unit cost of the item is significantly underestimated, an outcome exacerbated by unrealistic inflation-rate estimates dictated by the Office of Management and Budget. Senior acquisition managers therefore decide to halve the total number of items to be produced; to reduce the test program; to eliminate the reliability growth program; and to defer the purchase of spare parts and training equipment. Having been in place so long as to jeopardize his military career, the Project Manager moves on and a replacement assumes the position.

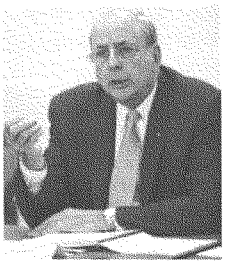
Seeking to prevent such problems from recurring, a chastened acquisition bureaucracy establishes new regulations, policies and oversight to better monitor and control future activities, large and small. Seeing this, some politicians who had questioned the need for the project at its outset, and had doubted its eventual success, seize on a new opportunity to reduce further the production buy. Understandably frustrated with the program's progress, Congress also imposes several additional stipulations, reviews and controls, some of a detailed technical nature.

As a consequence of these developments, unit costs skyrocket further due to the now over-capacity production line that had been constructed, the low rate of production, the need to amortize fixed costs over a significantly smaller procurement buy, the need to renegotiate thousands of subcontracts due to schedule changes, the demand for additional reports and reviews, and the inability of the factory to take full advantage of the learning-curve benefits of larger, more rapid and more stable procurement processes. Unit costs also increase because the law stipulates that most component parts be purchased in one-year increments rather than in larger, more cost-effective lots.

While the program has slowed, been diminished and grown more expensive, additional demands on the overall government budget emerge, some due to unforeseeable events and some due to cost overruns in other government programs, both military and civil. There is now significantly less money available for the production program than had originally been hoped (no overall assessment or projection of affordability had been conducted during the initial requirements process), so production is further curtailed as to both rate and quantity. The media begin quoting the unit cost as a fraction of GDP.

The troubled program is finally terminated due to widespread sticker shock, even though the equipment being developed is – belatedly – performing up to and even beyond requirements. Everyone involved with the program is shocked that this could have happened, even though it has happened to program after program for more than fifty years.

The contractor is lucky to break even, and program termination drives experienced personnel away from the defense industry. Meanwhile, the military officers who served as requirements generators return to their field assignments where they prepare their troops to go into combat with 40-year-old equipment.



Norm Augustine

Norm Augustine is the former chairman and CEO of the Lockheed Martin Corporation. He served as Assistant Secretary of the Army, Under Secretary of the Army, and Acting Secretary of the Army and received the Defense Department's civilian Distinguished Service Medal five times. He was CEO and chairman of Martin Marietta Corporation; Vice President, Advanced Programs and Marketing at LTV Missiles and Space Company; and served in the Office of the Secretary of Defense as Assistant Director of Defense Research and engineering. He is a member of the guiding coalition of the Project on National Security Reform and the Advisory Board to the Department of Homeland Security, and was a member of the Hart/Rudman Commission on National Security.

DISCLOSURE FORM FOR WITNESSES
CONCERNING FEDERAL CONTRACT AND GRANT INFORMATION

INSTRUCTION TO WITNESSES: Rule 11, clause 2(g)(4), of the Rules of the U.S. House of Representatives for the 111th Congress requires nongovernmental witnesses appearing before House committees to include in their written statements a curriculum vitae and a disclosure of the amount and source of any federal contracts or grants (including subcontracts and subgrants) received during the current and two previous fiscal years either by the witness or by an entity represented by the witness. This form is intended to assist witnesses appearing before the House Armed Services Committee in complying with the House rule.

Witness name: Mr. Norm Augustine

Capacity in which appearing: (check one)

___Individual

__XX_Representative

If appearing in a representative capacity, name of the company, association or other entity being represented:___Busniess Executives for National Security_____

FISCAL YEAR 2009

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
N/A			

FISCAL YEAR 2008

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
HSAC	DHS	$317,752	Catastrophic Events
Bioterrorism	DHS	$246,095	Bioterrorism Preparedness

FISCAL YEAR 2007

Federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
HSAC	DHS	$300,043	Catastrophic Events
CDC	CDC	$942,122	Public Health Preparedness
Bioterrorism Preparedness	DHS	$375,017	Bioterrorism Preparedness

Federal Contract Information: If you or the entity you represent before the Committee on Armed Services has contracts (including subcontracts) with the federal government, please provide the following information:

Number of contracts (including subcontracts) with the federal government:

Current fiscal year (2009):_____N/A_____;
Fiscal year 2008:_____2_____;
Fiscal year 2007:_____3_____.

Federal agencies with which federal contracts are held:

Current fiscal year (2009):_____N/A_____;
Fiscal year 2008:_____1_____;
Fiscal year 2007:_____2_____.

List of subjects of federal contract(s) (for example, ship construction, aircraft parts manufacturing, software design, force structure consultant, architecture & engineering services, etc.):

Current fiscal year (2009):_____N/A_____;
Fiscal year 2008:_Catastropic Events, Bioterrorism Preparedness_____;
Fiscal year 2007:_ Catastrophic Events, Bioterrorism, Public Health Preparedness_____.

Aggregate dollar value of federal contracts held:

Current fiscal year (2009):_____N/A_____;
Fiscal year 2008:_____$563,847_____;
Fiscal year 2007:_____$1,617,182_____.

Federal Grant Information: If you or the entity you represent before the Committee on Armed Services has grants (including subgrants) with the federal government, please provide the following information:

Number of grants (including subgrants) with the federal government:

Current fiscal year (2009):_____;
Fiscal year 2008:_____;
Fiscal year 2007:_____.

Federal agencies with which federal grants are held:

Current fiscal year (2009):_____;
Fiscal year 2008:_____;
Fiscal year 2007:_____.

List of subjects of federal grants(s) (for example, materials research, sociological study, software design, etc.):

Current fiscal year (2009):_____;
Fiscal year 2008:_____;
Fiscal year 2007:_____.

Aggregate dollar value of federal grants held:

Current fiscal year (2009):_____;
Fiscal year 2008:_____;
Fiscal year 2007:_____.

Statement of

PROFESSOR STEVEN L. SCHOONER
CO-DIRECTOR OF THE GOVERNMENT PROCUREMENT LAW PROGRAM
GEORGE WASHINGTON UNIVERSITY LAW SCHOOL

Before the
Defense Acquisition Reform Panel
House Committee on Armed Services
United States House of Representatives

Expert Perspectives on
Managing the Defense Acquisition System and
the Defense Acquisition Workforce

Thursday, February 25, 2010

Chairman Andrews and members of the Panel, I appreciate the opportunity to again discuss with you the pressing need to invest in the Defense Department's (DoD's) acquisition workforce.[1] The military departments depend heavily upon the private sector to accomplish their missions – not only for its weapons, but for the entire range of services required to support and sustain its personnel and systems. The military's insatiable consumption of services is particularly pronounced during contingency efforts, such as in Iraq and Afghanistan, where the private sector provides the government with unlimited, and vitally important, surge capacity. Accordingly, a properly-staffed, well-trained, motivated, and managed acquisition workforce is critical.

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[1] Additional discussion of these issues may be found in my previous statement before this panel: *Shaping a Workforce for Today's Acquisition Environment That Can Meet DoD's Needs* (July 21, 2009). In addition, since 2000, I have annually published trend data and analysis of the acquisition workforce in *Emerging Policy and Practice Issues*, at the WEST GOVERNMENT CONTRACTS YEAR IN REVIEW CONFERENCE. Many of these chapters are available on my Social Science Research Network (SSRN) page at *http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=283370*. See also, Steven L. Schooner and Daniel S. Greenspahn, *Too Dependent on Contractors? Minimum Standards for Responsible Governance*, 6 JOURNAL OF CONTRACT MANAGEMENT 9 (Summer 2008); Steven L. Schooner, *Contractor Atrocities at Abu Ghraib: Compromised Accountability in a Streamlined, Outsourced Government*, 16 STANFORD LAW & POLICY REVIEW 549, 557-561 (2005); See, e.g. Steven L. Schooner, *Feature Comment – Empty Promise for the Acquisition Workforce*, 47 THE GOVERNMENT CONTRACTOR ¶ 203 (May 4, 2005); Steven L. Schooner, *Competitive Sourcing Policy: More Sail Than Rudder*, 33 PUBLIC CONTRACT LAW JOURNAL 263, 282-289 (2004).

Many new hires will be required to shore up the defense acquisition workforce.

At a macro level, the empirical case demonstrating that DoD (with significant Congressional assistance) has starved its acquisition workforce for two decades is compelling. This is true for contracting officers and contract specialists. But there are many other pressing needs, and some may prove particularly difficult to fill, both in the short- and long-term, such as program managers and system engineers. At a micro level, it is premature to fret over, specifically how many people, and what specific skill sets, must be hired (both in the short- and the long-term) to (initially, at a minimum) provide better fiscal stewardship of the taxpayers' funds and (ultimately, from an aspirational perspective) provide exceptional value for DoD's scarce procurement dollars.

DoD's current goal, restoring the acquisition workforce to 1998 staffing levels by 2015, is a step in the right direction; but it is too little, too late.

DoD's articulated plan, which (optimistically) takes more than five years to restore the acquisition workforce to 1998 staffing levels is not only too slow, but aspires to too little. Even assuming that DoD eventually achieves its stated targets, "restoring" the acquisition workforce to 1998 levels likely will prove grossly inadequate. The 1998 benchmark seems divorced from a number of significant factors:

- 1998 comes ***after*** more than three-quarters of the decade-long ***1990's Congressionally-mandated reduction of the defense acquisition workforce*** – one of the most sustained, dramatic workforce diminutions of the modern era;
- There has been ***explosive growth of public procurement (and, more specifically, defense spending) in this decade,*** during which Federal procurement spending increased at a rate in excess of five times the rate of inflation;
- Longer-term trends that have dramatically changed what the government buys, specifically, the dramatic shift from the 1980's (heavily supplies/goods) to the present ***dominance of service contracts***. For example, flexible service contracts pose unique challenges in terms of post-award contract management, an area where DoD remains woefully understaffed;
- A looming retirement crisis faces the acquisition workforce; a disproportionate percentage of the acquisition workforce was hired before 1989, when the systematic dismantling of the acquisition workforce began;[2]
- A proliferation of statutory and regulatory requirements (particularly during the 1990's) have been inadequately implemented, because of a combination of the inadequacy of the workforce, the pace of change, insufficient time or money for training, and ambivalent leadership; and

[2] The government, like most institutions, almost always has a significant number of retirement-eligible employees. But the problem is uniquely pronounced today in the acquisition workforce. Indeed, commentators increasingly employ the phrase "bathtub effect" to describe the chart that depicts the age and experience distribution of today's workforce, which is heavily populated by very senior and relatively junior professionals.

- This is a government-wide problem – not just a DoD issue. Accordingly, DoD's efforts to retain and grow its workforce will be hampered by losses to civilian agencies (and, of course, the private sector, particularly as the economy recovers).

Enormous challenges remain to prepare and integrate the new cadre of professionals.

Today, the marketplace is saturated with talented business people, professionals of all stripes, and recent graduates who would jump at the chance to obtain training, professional expertise, and meaningful employment in business-related fields. Yet the civil service and OPM-based recruitment of acquisition personnel remains slow, cumbersome, and frequently impenetrable for many in the private sector. While the Defense Acquisition Workforce Initiative Act (DAWIA) was intended to raise standards for the acquisition workforce, in retrospect, it impeded progress by, among other things: (1) prompting cynicism through large-scale, sustained waiver of its requirements; and (2) making entry-level positions seem unattainable to talented, highly (and often over-) qualified young people. Further, given the limited scale and disaggregated nature of defense acquisition intern programs, there is insufficient awareness in the nation's colleges, universities, and business schools of the opportunity to serve the nation as a valued business manager.

Simply hiring more people will not end this conversation. Aggressive steps must be taken so that today's efforts pay long-term dividends. There is every reason to be pessimistic, that, even if DoD can hire so many new personnel, they lack the vision, institutions, and determination to properly train, allocate, mentor, incentivize, develop, and, over time, retain the generation next of acquisition professionals.[3] Under current market conditions, the government should be able to hire plenty of talent – particularly at the entry-level – in the short-term. But what will happen when the economy recovers?

Despite its limited size (populated by dozens, rather than hundreds or thousands of entry-level professionals), the Veterans Administration Acquisition Academy appears to provide a useful model of a holistic, hands-on, results-oriented program. Similar results, on the larger scale required by DoD, might be achieved by combining aspects of co-op graduate programs, ROTC scholarships, or the military's funded legal and medical training programs. I am encouraged, on this score, by S. 2901 the Acquisition Workforce Improvement Act of 2009 ("[t]o improve the acquisition workforce through the establishment of an acquisition management fellows program"), introduced by Senators Susan Collins (R-Maine), Claire

[3] See, generally, *Vernon J. Edwards, Feature Comment: Throwing People at the Problem – Massive Hiring Will Not Revitalize the Acquisition Workforce*, 51 GOVERNMENT CONTRACTOR ¶ 288 (2009) ("The hiring surge is injecting many people into a system that is not ready to receive them or to develop and retain first-rate professionals. ... [T]he Government's primary approach to workforce revitalization, which is to overwhelm the workload problem with numbers, will result in needlessly higher labor and training costs, suboptimal worker performance and suboptimal retention rates among the best new hires.").

McCaskill (D-Mo.), and Bob Bennett (R-Utah). These types of solutions cannot solve all of DoD's problems today, but they could dramatically reduce the likelihood that we will be having the same conversation a generation from now.

Significant leadership issues must be addressed.

Leadership remains a significant problem. The acquisition workforce crisis did not arise overnight. Rather, DoD has watched – and to some extent – contributed to this trend. It is understandable that a group of agencies tasked with defending the nation and fighting in two difficult, complicated engagements may be focused on other priorities. Still, it is difficult not to be skeptical of DoD's stated commitment to changing course and investing in the acquisition workforce. For too long, particularly in this decade, DoD has delegated (indeed, shunted) the acquisition workforce issues/problems to the Defense Acquisition University, which – despite the gravity of the situation – has proven slow, risk averse, under-resourced, and insufficiently potent to alter behavior, all the while serving to reinforce the marginalization of acquisition workforce.

The recently installed OFPP Administrator, Daniel Gordon, is articulating a strong position on these issues. Time will tell whether Mr. Gordon has been empowered to effectuate change. Indeed, the White House has yet to establish its commitment to supporting the acquisition workforce (through more than rhetoric), rather than distracting that workforce from its ultimate purposes – meeting their agency customers' needs and ensuring that the government receives value for its money. The White House dragged its heels on the appointment of an OFPP Administrator, continues to promise unrealistic savings, and too often engages in contractor bashing while promulgating populist policy (focused on media-friendly issues such as sole-source contracting, cost-reimbursement contracting, and outsourcing) rather than results-oriented problem solving. Similarly, the White House appears to have no hesitation to inject additional social policies (e.g., most dramatically, pro-labor policies, and now environmental policies) into an already over-burdened and distracted procurement regime.

The toxic environment adversely impacts acquisition recruitment, retention, morale, and motivation.

For too long, it appears that Congress has failed to appreciate the familiar refrain: an ounce of prevention is worth a pound of cure. While there seems to be endless support and funding for resources to increase accountability – to detect errors and punish transgression – until recently, neither Congress nor the DoD seemed willing to invest in the acquisition workforce to proactively reduce the failure rate (or simply obtain better value for money on a consistent basis).

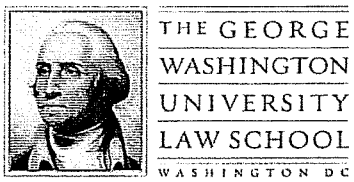
Moreover, the pervasive anti-contractor rhetoric emanating from the media, not-for-profit organizations, the Legislature, and the Executive branch (including, among others, the Justice Department, the Defense Contract Audit Agency, and the Inspectors General) colors public perceptions of contractors and the acquisition profession. There is more truth than black humor in Jack Gansler's popular new moniker for the current environment: the "Global War on Contractors." While a successful procurement regime depends upon high standards of integrity

and compliance, the currently pervasive "corruption control" focus not only stifles creativity and encourages mechanical rule adherence, but encourages timidity and risk-averse behavior. We can debate whether the government has a responsibility to disclose its dependence on contractors and laud their successes. But if the government aspires to recruit, inspire, and retain tens of thousands of new professionals, the government surely has an interest in communicating the importance – to every government mission – of effectively managing the government's business partners, its vendor and supplier base, or, simply, its contractors.

Conclusion

Twenty years of ill-conceived under-investment in DoD's acquisition workforce, followed by a persistent failure to respond to a dramatic increase in procurement activity, has lead to a triage-type focus on buying, with insufficient the resources available for acquisition planning, contract administration, management, and oversight. The old adage – an ounce of prevention is worth a pound of cure – rings true and, increasingly, shrill. Any prospective investment by DoD in upgrading the number, skills, and morale of government purchasing officials would reap huge dividends for the taxpayers and the warfighter.

That concludes my statement. Thank you for the opportunity to share these thoughts with you. I would be pleased to answer any questions.



STEVEN L. SCHOONER is Associate Professor of Law and Co-Director of the Government Procurement Law Program at the George Washington University Law School, where he previously served as Senior Associate Dean for Academic Affairs.

Before joining the faculty, Professor Schooner was the Associate Administrator for Procurement Law and Legislation (a Senior Executive Service position) at the Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget (OMB). He previously tried cases and handled appeals in the Commercial Litigation Branch of the Department of Justice. He also practiced with private law firms and, as an Active Duty Army Judge Advocate, served as a Commissioner at the Armed Services Board of Contract Appeals. As an Army Reserve officer, he served for more than fifteen years as an Adjunct Professor in the Contract and Fiscal Law Department of the Judge Advocate General's School of the Army, in Charlottesville, Virginia.

Outside of the U.S., he has advised hundreds of government officials on public procurement issues, either directly or through multi-government programs. His dispute resolution experience includes service as an arbitrator, mediator, neutral, and ombudsman.

Professor Schooner received his Bachelors degree from Rice University, Juris Doctor from the College of William and Mary, and Master of Laws (with highest honors) from the George Washington University. He is a Fellow of the National Contract Management Association (NCMA), a Member of the Board of Advisors, a Certified Professional Contracts Manager (CPCM), and serves on the Board of Directors of the Procurement Round Table. He is a Faculty Advisor to the American Bar Association's PUBLIC CONTRACT LAW JOURNAL and a member of the GOVERNMENT CONTRACTOR Advisory Board. He is author or co-author of numerous publications including THE GOVERNMENT CONTRACTS REFERENCE BOOK: A COMPREHENSIVE GUIDE TO THE LANGUAGE OF PROCUREMENT (now in its third edition). Professor Schooner's recent scholarship is available through the Social Science Research Network at *http://ssrn.com/author=283370.*

DISCLOSURE FORM FOR WITNESSES
CONCERNING FEDERAL CONTRACT AND GRANT INFORMATION

INSTRUCTION TO WITNESSES: Rule 11, clause 2(g)(4), of the Rules of the U.S. House of Representatives for the 111th Congress requires nongovernmental witnesses appearing before House committees to include in their written statements a curriculum vitae and a disclosure of the amount and source of any federal contracts or grants (including subcontracts and subgrants) received during the current and two previous fiscal years either by the witness or by an entity represented by the witness. This form is intended to assist witnesses appearing before the House Armed Services Committee in complying with the House rule.

Witness name: **Steven L. Schooner**

Capacity in which appearing: (check one)

_x_ Individual

___ Representative

FISCAL YEAR 2007-2009

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
1	Dept of Justice	Less than $10,000	Expert witness

STATEMENT BY

JOSEPH FLYNN, NATIONAL VICE PRESIDENT

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

BEFORE

THE DEFENSE ACQUISITION REFORM PANEL

HOUSE ARMED SERVICES COMMITTEE

REGARDING

EXPERT PERSPECTIVES ON MANAGING THE DEFENSE ACQUISITION SYSTEM AND THE DEFENSE ACQUISITION WORKFORCE

FEBRUARY 25, 2010

Mr. Chairman and Panel Members,

Introduction

My name is Joseph Flynn. I am the National Vice President for the Fourth District of the American Federation of Government Employees, based in Baltimore. I am pleased to appear before you today to discuss issues related to performance management for Department of Defense employees now that the National Security Personnel System (NSPS) has been repealed.

AFGE and 35 other unions representing DoD civilians vigorously opposed NSPS from its conception until its repeal. The original NSPS included provisions to virtually eliminate collective bargaining rights for DoD civilians, as well as eliminate employees' rights to independent adjudication of severe disciplinary actions, including termination. Those were repealed in the 2008 National Defense Authorization Act, but it wasn't until last year that the so-called pay-for-performance scheme for NSPS employees was repealed. Several factors led to that repeal.

DoD's own internal evaluation done by SRA International, Inc. and released May 21, 2009 showed that higher-level, higher-paid employees got higher performance ratings and payouts than lower-level, lower-paid employees. The disparity was especially great between employees earning $100,000 or more and employees earning $60,000 or less. The latter group actually lost money compared to GS employees. This is something that the Defense Business Board warned about in a report it released in 2005. It said that there was a natural tendency in pay-for-performance systems for money to move from lower-paid employees to higher-paid employees.

NSPS data also revealed discriminatory practices negatively impacting ethnic and racial minorities. White employees got higher ratings and performance payouts than ethnic or racial minorities. It does not matter whether this was intentional or not – the results are absolutely unacceptable. The data also showed that employees working in or near the Pentagon or at the highest levels of various commands got higher ratings and payouts than those working in other locations. This was backed up by stories we have been told by managers that unless people worked at these higher levels, their work was not considered important enough to deserve the highest ratings and payouts. These kinds of outcomes are not unique to NSPS but show up time and time again in so-called pay-for-performance systems.

Specific Problems With NSPS

Two key principles to keep in mind as new management systems are considered are organizational performance and opportunity cost. The resources required for NSPS since 2004 have been considerable in terms of:

management and supervisor time,

- training resources,
- employee time,
- consultant expenses,
- the creation of special offices to design, implement, and monitor the reams of regulations and issuances,
- the time associated with Congressional hearings and legislative oversight,
- the considerable disruption throughout the workforce, and finally
- potential for billions of dollars in liability for discriminatorymote actions.

NSPS was allegedly created to improve organizational performance. But no analysis was ever conducted to document and measure organizational performance improvements; indeed no baseline existed prior to implementation of NSPS. The enormous investment in NSPS – from the beginning a highly controversial personnel system – never paid off.

Pay bands are similar to grades in that they have beginning and end salary points. Under NSPS, jobs are placed in a band. But unlike under the General Schedule, where the value of the position is clearly identified, in NSPS it is not transparent. Where in the band a job is valued is not always clear, so equal pay for equal work is impossible to achieve. Although it may appear at first blush that salary potential may be greater for some positions in a band, employees soon learn that a control point has been established which limits the salary below the top of the grade.

Pay bands also undermine the merit system because merit promotions are virtually eliminated. Under the GS, jobs are posted for all to see, and people are hired for those positions following a competition based on merit. This is not only transparent and honest, but a promotion is very public recognition for the individual's performance.

By contrast, under NSPS, merit promotion was rarely used. Instead, employees had their duties increased with additional pay. Even if there was no favoritism and motives were pure, there was no merit competition and no "public recognition". MSPB studies have found that recognition of employee performance (as opposed to keeping most of their pay if they perform) is a key motivational driver for employees.

Interestingly, in its June 2005 report to the Secretary of Defense about the implementation of NSPS, the Defense Business Board warned against going to pay bands and pay-for-performance for the entire workforce. Because the funding of performance pay pools is one of the most consequential decisions DoD could have made resulting in disparate impact among NSPS employees, the DBB recommended that DoD establish "fire walls" between the various pay bands of an organization's pay pool and not to permit merit and bonus money to move between pay bands, except under exceptional circumstances. The DBB said that without these "firewalls," the likely result would be a "natural" movement of pay pool money from the lower levels to the upper levels, unfairly depriving lower-level employees of an equal opportunity to compete for merit pay increases and bonus dollars.

And that is exactly what happened. NSPS proponents solved their budget problem of not having enough money for positions by stealing money from lower rated positions and transferring it up.

NSPS' process for rating employees was quite complicated. Each employee was given job objectives which had one or more contributing factors, such as "cooperation and teamwork," "leadership," and "customer focus." The supervisor assigned a rating from 1 to 5 on each job objective, then rated the employee on the contributing factors associated with that job objective.

Supervisors were ordered NOT to reveal to their subordinates the ratings and payouts they were recommending to the pay pool panels. An Army instruction guide for supervisors provided them with a script when an employee asked for his rating. The supervisor's proper answer in such a circumstance was:

"My recommendation is just that – a recommendation – that I will not share with you. The higher level reviewer, and the pay pool panel, will be looking at my recommendations in terms of the larger organization."

This hardly encouraged meaningful performance communication between employees and their supervisors. Imagine the conversation between you as the supervisor and your employee. You thought she did a great job and told her so even though you could not reveal your rating of 5. Three months later, you had to tell the employee that a "pool" of higher level supervisors who did not know her or her work product, had declared that she didn't do so great—and that her rating was a 3. The employee's trust in the boss was gone and the supervisor's ability to lead anyone was gone.

Further, the money put into shares varied enormously. In some places, a share was worth 1% of salary, in others 1.5% and in yet others 2%. These amounts varied among and within components and all the way down to individual workplaces and individual employees. In some workplaces, an employee who got a performance rating of 3 could get more than someone elsewhere who was rated a 4 or even a 5. Some pay pools made distinctions among 3s, 4s, and 5s giving individuals who got the same ratings different numbers of shares. In other words, there was no consistency whatsoever.

To make matters even more complex, the pay pool managers decided how much of a share should be put into an employee's salary increase versus cash bonus. Employees in the same pool with the same job could receive the same rating and same share amount but one raise might have been virtually all salary while the other was virtually all cash bonus. **There was so much flexibility and no transparency, any convenient rationale could be constructed.**

DoD contracted out its own internal evaluation of NSPS results for 2008 to SRA International. In broad strokes, the study corroborated much of AFGE's criticism of NSPS. They judged themselves according to five parameters having to do with encouraging high performance, agility, credibility and trustworthiness; and fiscal

controls. They said failure on any one of them required serious reconsideration of NSPS – and NSPS failed on all of them.

With respect to the High Performance parameter, a majority of NSPS participants told SRA that the system had *not* improved the link between pay and performance and had *not* improved communications between supervisors and employees regarding performance expectations or feedback. The reassignment caps and control points undermined the performance pay system, negatively affecting retention. Furthermore, focus groups expressed doubt over whether performance ratings matched actual performance.

On the Agility parameter, NSPS fared even worse, with employees generally seeing "NSPS as worse than the GS system for hiring, placement, and promotion."

On the Credible and Trusted System parameter, the report said that a majority of employees did *not* believe that "pay pool panels help ensure fair ratings and payouts." The study also found that employees were worried about the effect on their future retirement of cash bonuses rather than pay increases.

And with regard to the Fiscal Soundness parameter, the study showed problems with the disparate funding of NSPS in different parts of the Department. Some employees were in DoD organizations that had added more money to their pay pools, but they doubted that those levels would last. Employee concerns about more money going into cash bonuses than pay increases were dead on. In 2008, DoD underspent the funding for salary increases in the pay pools by 3.1 percent and overspent the funding for bonuses by 5.5%. The total payouts from pay pools were lower by 0.2 percent of the funding amount.

Chapter Two of the SRA study confirmed what we had been told; that employees with the same performance ratings received different numbers of "shares," but also that the share values varied throughout DoD. Perhaps the most damning statistic was that the percentage salary increases, and the percentage value of bonuses were more correlated with income level than with performance level. In addition, when pay pool managers exercised their discretion over how many shares to award to an employee with a given performance rating, SRA showed the answer depended upon the salary range of the employee.

The report stated plainly: "...in general, the higher the pay, the higher the rating, the higher the proportion getting the higher number of shares for ratings of 3 or 4, the higher the percent who received an increased rating due to the contributing factors, the higher the payout percentage." With regard to other factors, in general, being a racial minority had a negative effect, and being black had a more negative effect than membership in other racial groups. This combination of racial and class bias in ratings, and in the distribution of shares to workers with the same performance ratings is unconscionable.

Though the report strained to put a positive spin on its overall findings, it was forced to admit that from employees' perspectives, it might require a generational turnover, when no current employee remembers the GS system, before NSPS could be perceived as either fair or superior to the former system.

AFGE also examined the data from the 2008 payouts to see whether there is any pattern of discrimination against women, racial minorities, or a particular age group. Our findings indicated that there had been discrimination. The most pronounced discrimination came from the step in the process most open to managers' discretion: the awarding of shares from the pay pool. Even if performance ratings were objective – and there is no indication that they were – the decision of how many shares to award to individuals with a given rating was discretionary. And the data clearly show that at this crucial step, NSPS discriminated against racial minorities.

NSPS was a tainted, fatally flawed system, created in a poisonous atmosphere by ideologues seeking to destroy collective bargaining, federal unions and employee rights and protections. The pay, performance management, classification, and staffing systems created under NSPS were unwieldy, discriminatory, complicated, costly, opaque, and mistrusted by DoD civilian employees at all levels. I urge the members of the panel to ensure that this colossal mistake is not repeated in any subsequent legislation.

Flexibilities of the General Schedule

Mr. Chairman, despite much rhetoric to the contrary, the General Schedule pay system is simple, transparent, flexible, and particularly adept at rewarding high performance among employees when proper funding is available. Within-grade step increases, quality step increases, and individual performance bonuses are all designed to promote individual excellence. Two additional constructs of the GS are the best at motivating employees:

1. Career ladders, which allow an employee to progress from one grade to the next as part of the position for which he is hired. For example, an employee may begin working for an agency in a position which has a career ladder of GS-5 to GS-7 to GS-9 culminating in a top grade of GS-11. The career ladder is similar to pay banding, except that under the career ladder the criteria for advancement are known and understood by the employee and his supervisor. If the GS-5 employee applies himself and achieves the performance standards required, then he progresses to the GS-7. If he achieves the performance standards for the GS-7, he then progresses to the GS-9, then so on to GS-11. The career ladder gives tremendous incentive to the employee to work hard and dedicate himself to the agency's mission. It assures him that he will not find himself at a dead end.

2. Merit promotion, which occurs when an employee is eligible for and promoted to a different job at a higher grade. Under merit promotion, jobs are posted for all to see, and people are hired for those positions following a competition based on

merit. This is not only transparent and honest, but a promotion is very public recognition for the individual's performance.

In addition, the GS system allows special pay rates for occupations in areas where it is difficult to recruit for particular jobs, recruitment, relocation and retention bonuses, and student loan repayment programs.

It may be helpful to the panel to compare the "market" elements of the General Schedule (GS) vs. NSPS. GS national and locality pay raises are based on pay studies and job matches done by the Department of Labor's Bureau of Labor Statistics, the best statisticians in the world. The data and the results under FEPCA are discussed in a joint committee consisting of OMB, OPM, DOL, AFGE and several other unions. All employees receive the same national raise and a locality raise which is based on the regional labor market.

AFGE has successfully negotiated numerous contracts with group performance bonuses, or gainsharing, which is loosely defined as a teamwork-oriented program that encourages employees to be involved in management restructuring of processes, and then makes all participants eligible to receive group rewards as the organization becomes more efficient. Gainsharing focuses employees on factors that they can control. During the mid-1990s, AFGE and the Department of Defense engaged in a successful five-year demonstration project called Pacer Share which involved changes in organizational structure, a new classification system, gainsharing, and a different performance appraisal system. I would like to emphasize, Mr. Chairman, that all of these changes were conducted through the collective bargaining agreement. The Pacer Share system gains were shared 50-50 between the employees and the agency. Ninety percent of the employees' half was distributed as bonuses and the remaining ten percent was used for quality of work life improvements, including child care.

Dealing with Poor Performers

AFGE is working with the Office of Personnel Management as it explores options to enhance and improve the current General Schedule pay and performance management system. We are discussing the need for changes to simplify the appraisal process, so that there would generally be three categories of employees; i.e. those who are "in good standing," those who are superstars, and those who are not performing at an acceptable level. AFGE has negotiated contracts with just those sorts of systems, and the results have been extremely favorable. There is agreement between the employees and managers that the system is fair, that it involves less tedious and often pointless paperwork, which in turn allows the employees and their supervisors to focus on the work of the agency.

Mr. Chairman, I realize how pervasive the perception is that the federal workforce is full of incompetents who are showing up late if they show up at all, doing virtually nothing all day, and yet collecting a paycheck. Are there people like this in the federal government? Yes, a few. And nobody believes more strongly than AFGE that they

need to be dealt with in a serious manner. It is important that hardworking, rank-and-file employees not be forced to take up the slack for those who are intentionally unproductive.

Management must take responsibility for aggressively handling these employees. So often managers complain that it's impossible to fire a federal employee. That is a ridiculous, self-serving excuse for incompetent management. Conflict is painful for some people, and those who cannot tolerate it should not be promoted into supervisory positions. However, sometimes managers do want to take action, but are discouraged from doing so by their legal and personnel offices. The resulting paralysis is bad for everybody.

There are also employees who are hardworking and dedicated, but nevertheless unsuccessful in their work. The agency's leadership should ensure that these employees are given appropriate training and the tools to do their jobs. If such training and coaching do not solve the problem, then the employee may be in the wrong job. Humane steps should be taken to place the employee in another job inside the agency for which he or she would be better suited.

AFGE routinely negotiates contracts which simplify and expedite appeals for adverse personnel actions. The grievance-arbitration process included in our contracts is transparent, impartial, and swift.

Outlook for the Future

In addition to our ongoing dialogue with the Office of Personnel Management, AFGE is eager to work with the Department of Defense to improve the performance management and hiring systems so that the needs of the employees, the taxpayers, and the warfighters can all be addressed. We are working toward labor-management harmony, and hope to get the Department moving in concert with its civilian workforce.

That concludes my statement. I will be happy to answer any questions.

AFGE District Four National Vice President Joseph P. Flynn

First elected to the top District leadership post at the District Caucus on May 14, 1999 and re-elected by the District for a Fourth term in May 2008, NVP Flynn was born in Iowa and raised in New Mexico where he earned undergraduate and graduate degrees at the University of New Mexico. Prior to working for the federal government, NVP Flynn held positions as County Welfare Director and New Mexico State Medicaid Director. NVP Flynn has over 40 years' experience as an AFGE activist and officer holding numerous positions in our union.

DISCLOSURE FORM FOR WITNESSES
CONCERNING FEDERAL CONTRACT AND GRANT INFORMATION

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Witness name: Joe Flynn, National Vice President, American Federation of Government Employees, AFL-CIO

Capacity in which appearing: (check one)

___Individual

_X___Representative

If appearing in a representative capacity, name of the company, association or other entity being represented: American Federation of Government Employees, AFL-CIO

FISCAL YEAR 2009

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
n/a			

FISCAL YEAR 2008

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
n/a			

FISCAL YEAR 2007

Federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
n/a			

Federal Contract Information: If you or the entity you represent before the Committee on Armed Services has contracts (including subcontracts) with the federal government, please provide the following information:

Number of contracts (including subcontracts) with the federal government:

Current fiscal year (2009):_____n/a_____;
Fiscal year 2008:_____n/a_____;
Fiscal year 2007:_____n/a_____.

Federal agencies with which federal contracts are held:

Current fiscal year (2009):_____n/a_____;
Fiscal year 2008:_____n/a_____;
Fiscal year 2007:_____n/a_____.

List of subjects of federal contract(s) (for example, ship construction, aircraft parts manufacturing, software design, force structure consultant, architecture & engineering services, etc.):

Current fiscal year (2009):_____n/a_____;
Fiscal year 2008:_____n/a_____;
Fiscal year 2007:_____n/a_____.

Aggregate dollar value of federal contracts held:

Current fiscal year (2009):_____n/a_____;
Fiscal year 2008:_____n/a_____;
Fiscal year 2007:_____n/a_____.

Federal Grant Information: If you or the entity you represent before the Committee on Armed Services has grants (including subgrants) with the federal government, please provide the following information:

Number of grants (including subgrants) with the federal government:

Current fiscal year (2009):_____n/a_____;
Fiscal year 2008:_____n/a_____;
Fiscal year 2007:_____n/a_____.

Federal agencies with which federal grants are held:

Current fiscal year (2009):_____n/a_____;
Fiscal year 2008:_____n/a_____;
Fiscal year 2007:_____n/a_____.

List of subjects of federal grants(s) (for example, materials research, sociological study, software design, etc.):

Current fiscal year (2009):_____n/a_____;
Fiscal year 2008:_____n/a_____;
Fiscal year 2007:_____n/a_____.

Aggregate dollar value of federal grants held:

Current fiscal year (2009):_____n/a_____;
Fiscal year 2008:_____n/a_____;
Fiscal year 2007:_____n/a_____.

DOCUMENTS SUBMITTED FOR THE RECORD

FEBRUARY 25, 2010

THE DEPUTY SECRETARY OF DEFENSE
Washington, D.C., July 31, 1969

Memorandum for: Secretary of the Army; Secretary of the Navy; Secretary of the Air Force.

Subject: Improvement in Weapon Systems Acquisition.

At the outset of this Administration it became clear that there were many problems associated with weapon system acquisition and that this area needed improvement. At that time, however, I expressed the philosophy that I wanted a reasonable chance to survey the situation before taking action. I believe that we need to experiment with and try out in a limited manner new practices and procedures and then, based on experience gained, establish the required policies or make other necessary changes rather than making major policy and far-reaching decisions off the top of the head.

To study specific areas of system acquisition I established several panels of the IAC to help -identify the prime problems that-should be given priority attention. These panels have now given me their preliminary reports and I believe that some things are so clearly indicated that action can be started on them immediately. The problems associated with cost growth in systems acquisition fall in this category. For example, from the statistics that have been prepared and which I have furnished the Congress, the largest single cause of cost growth is over-optimism in cost estimates for major weapon systems. This is true both on the part of the contractor and the Military Service. Much of this results from the tremendous competition for programs among contractors. It is also a product, within the Services, of competition between programs for limited financial resources. There are, of course, numerous other reasons. I believe that the best way to change this situation within industry is to impress firmly on Defense contractors the need for cost realism in their proposals and the fact that we will make this point a major factor to be considered in source selection. This in turn will require that we make a distinct improvement in our DOD cost estimating and validating capability, as well as insuring that this estimating capability is fully and effectively applied by the source selection authority.

I feel that within the Services' this is an item to which you should give priority attention. I would therefore like within the very near future to discuss with each of you your proposed actions and program that you feel will improve the program cost estimating capability in your Service. In addition to the Service action there is also needed an independent OSD capability to validate these cost estimates.

In my recent reviews of the histories of a number of major programs, I have noted that another major contributor -to cost growth consists of changes which we make in a program during both the development phase and the production phase. While I know there is a valid need for some changes, much improvement is possible in this area. Many of the changes of the type currently being made can be and must be avoided. This can be accomplished, in part, first by assuring that we do a better and more complete job of defining what we really need in a system before entering full-scale development and, second, by the vigorous review and elimination of the many "nice" or "desirable" features which so often creep into these systems as they proceed through development and production. I therefore am requesting that each of you take action in

the area of the establishment of military requirements to assure that better system definition is in fact accomplished before programs are submitted to the Secretary of Defense for approval for full-scale development; that increased emphasis be given to the implementation of the recently established program for configuration management and control; and that no changes be approved without an accurate knowledge of the impact of the cost of the change on the total program cost.

My reviews have also indicated a third major reason for cost growth which is to some degree associated with the above two points. This is that we have not adequately identified the risks associated with major programs and in fact in most cases we have not done a thorough job in completing the prerequisites to contract definition which are currently called for. In our desire to enter into these programs we have often shortcut some of these prerequisites and have not adequately completed the advanced development necessary to reduce the major risk areas to the point where it will be manageable in full-scale development. This often results in the necessity, in the middle of a large development effort, of going back-and accomplishing work that should have been done beforehand, with, of course, the accompanying disruption of schedule and increase in program cost. I would, therefore, like each of you to focus more attention on this matter and assure that; during concept formulation:

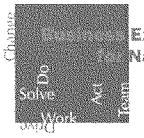
Areas of high technical risk are identified and fully considered;
Formal risk analysis on each program is made;
Summaries of these are made part of the back-up material for the program

Although not directly associated with the cost growth aspect of weapon system acquisition, there are two other items which I think are clear enough and important enough to mention here.

The first item relates to the use of competitive prototypes in our acquisition process, as well as the use of brassboard or other design validation techniques which may not be competitive. I feel that we will benefit by increasing dependence on hardware demonstration and competition, with some corresponding reduction in dependence on paper analyses. This must be done with recognition of the differences in susceptibility of different types and sizes of systems of this treatment; however, I am convinced that there are distinct benefits to be gained by a judicious increase in our use of hardware in the weapons acquisition process. The second item relates to what I consider to be a general deficiency in the amount of test and evaluation we perform on a developmental weapon system before we commit significant resources to production. While it is generally, in my opinion, a mistake to schedule a complete break between development and production commitment, we have tended to drift too far in the direction of concurrency and this must be reversed.

I would like to have at your early convenience, your comments on the way you plan to put -into effect the matters of guidance I have discussed above. On reviewing your answers I will conclude whether further direction or policy expression is needed to accomplish the desired purposes.

DAVID PACKARD



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April 5, 2010

The Honorable Robert Andrews
Chairman
Panel on Defense Acquisition Reform
House Armed Services Committee
Washington, DC 20515-6035

Dear Representative Andrews:

Thank you for the opportunity to testify before your panel and to comment on your report.

Attached is a response for the record on the question of the professionalism of the acquisition work force, the quality of their training and the sufficiency of their motivation and incentives. We are pleased with your ongoing interest in finding fair evaluative mechanisms for employees and that you are actively involved in looking for a solution to the problem of motivation and fair treatment of people that are part of our team, including the contracting community.

As you know, the BENS Task Force believes Congress' role in setting the expectations for the process is crucial and we applaud your sense of responsibility for performing oversight, providing adequate funding, and not seeking to take the place of management. We stand ready to answer any questions you may have. Please contact the BENS staff: Susan Maybaumwisniewski, smaybaum@bens.org or Paul Taibl, ptaibl@bens.org (who have worked with me on this review), or me, norm.augustine@lmco.com, should we be able to be of any assistance.

Sincerely,

Norman R. Augustine

Norman R. Augustine
Chairman
Task Force on Defense Acquisition Law & Oversight
and
Retired Chairman and Chief Executive Officer
Lockheed Martin Corporation

For the record remarks provided by Business Executives for National Security Task Force on Acquisition Law and Oversight Chairman Norman Augustine

I applaud the interest of Congress in the development of the acquisition work force. The BENS Task Force recognized that Congress has renewed its interest in workforce issues and, as recently as 2008, enacted a requirement for a defense acquisition workforce section in the Department's Strategic Human Capital Plan. You also established a Department of Defense Acquisition Workforce Development Fund ($3 billion over the five-year period 2008-2012). Results, thus far, have not been entirely obvious. Those legally responsible for the workforce need to ensure that it is properly trained and equipped to do its job. Given that this workforce manages over 30 percent of the DoD budget, it makes sense to give it senior leadership attention—including that of the Secretary of Defense and the Service Chiefs and Secretaries themselves.

Acquisition Total Workforce: In his FY 2010 budget announcement Defense Secretary Robert Gates called for "increasing the size of the defense acquisition workforce, converting 11,000 contractors to fulltime government employees and hiring 9,000 more government acquisition professionals by 2015." This would seem to be appropriate; however, we distinguish sharply between the impact of 20,000 workers each with one year of experience and the impact of 1,000 workers each with 20 years experience. We also recognize the need and flexibility that a contract workforce offers the Defense Department and national security. Contractors have been a part of our national defense team from our founding, and with good reason. In addition to serious consideration of what skill sets and capabilities need to be brought in-house to ensure inherently governmental work is being conducted by the government, it is equally imperative that the legitimate roles and capabilities of a contract workforce be preserved.

To restore the defense acquisition workforce to broad excellence, the Task Force believes that above all, the right people are needed. There are many good people in the system, but that does not make them the right people. In optimizing the management of relevant skill sets, the flexible, innovative, cost-effective workforce needed for the 21st century can emerge. It cannot occur on the quick or the cheap, and could take a decade to restore. The bottom line for the acquisition enterprise is to recognize and reconstitute a professional acquisition workforce working side-by-side with its contractor support—and, most importantly, its operational counterparts.

Removing disincentives: The challenge of removing disincentives to acquisition-workforce excellence also faces the whole of Federal government human-capital management. Indeed, over the years, the Government Accountability Office has put a great deal of effort into assessing best practices in the field of human capital management. To create incentives in the working population to seek Federal employment, the GAO urges that government managers adopt the same organizational concepts that private-sector managers use: become less hierarchical, process oriented, stove-piped, and inwardly focused and more flat, results-oriented, integrated, and externally focused. The major problem is not unmotivated Federal employees but rather the lack of a consistent strategic approach to marshaling,

managing, and maintaining the human capital needed to maximize government performance and ensure its accountability.

The GAO contends that much of the authority agency leaders need to manage human capital strategically is already available under current laws and regulations. However, they point out that implementation requires sustained and inspired efforts by many parties, including the President, department and agency leaders, the Office of Management and Budget, the Office of Personnel Management, Congress, and others. Engaged leadership is the overriding key to success, and that includes Congressional leadership.

Congress needs to work with all involved parties to identify comprehensive legislative reforms in the human capital area. These reforms should emphasize the assessment of skills, knowledge, and performance in connection with Federal employment and compensation decisions, rather than non-competitive General Schedule "step" increases and inflation adjustments, as is often the case today. Policymakers should pursue legislative reforms to give agencies additional flexibility to hire, manage, and retain the human capital they need, particularly in critical occupations.

Ethics: While the intent of government ethics regulations is to be strongly applauded, those aspects that unduly discourage individuals from accepting government employment (e.g., extensive paperwork, financial burdens, redundant security clearance processes) should be reevaluated as to their necessity. With respect to conflict-of-interest and ethics rules that apply to potential appointees and senior officials, no fewer than 79 provisions in law limit, dissuade or otherwise constrain such workers from accepting or continuing service. The Federal application for politically appointed positions currently runs to over 60 pages. Granted this illustrates the best of intentions, but this drives away significant numbers of talented, public spirited people. Combining incremental legislative reforms to the hiring process with relief from the onerous disclosure, divestment and vague conflict-of-interest provisions that prevail, would improve the overall hiring climate for the Defense Department. The current problems are exacerbated by repetitive, redundant security clearance demands.

Chain of Responsibility through Service Chiefs: To begin to address the issue of the development of the acquisition work force, I recommend you amend the Goldwater–Nichols legislation to reinstate the Service Chiefs in the chain of-responsibility over the Program Executive Officers (PEOs) and Program Managers (PMs). Program Managers are the heart of the defense acquisition process and should be granted commensurate authority. They should be required to have corresponding training and experience to their war fighting counterparts. Career paths should be established that permit program managers and other key personnel to remain in their positions at least from one major milestone to the succeeding major milestone. Service in the acquisition process must not damage a military career.

The Packard Commission, which presaged the Goldwater-Nichols reforms of 1986, envisioned streamlined chains of command and gave greater management control to program managers. The actual legislation, however, did not follow through on those principles. Instead, it stripped the Service Chiefs from the acquisition chain-of-responsibility by creating a DAE-SAE-PEO-PM reporting line. While

Goldwater-Nichols did embed the concept of "jointness" in the acquisition system—since reinforced by the evolution of the JCIDS and JROC processes—it has had over time the deleterious effect of damping the career progression paths for officers in PEO and PM positions within their own services by removing the oversight of the service chief, who has a deep interest in ensuring institutional capability.

The Task Force therefore recommends that the Goldwater-Nichols legislation be revised and that the PEO and PMs revert to the reporting chain-of-responsibility under their respective Service Chief. This move would reconsolidate the Service Chiefs' control over resource allocation (which they already possess) and the acquisition processes; help to re-establish a more attractive career progression path for officers in the acquisition career field; and, go a long way toward restoring the professionalism of the career field, putting it more nearly on a par with the operational side of the Service. The Service Secretaries would continue their oversight through the Service Chiefs.

Information Technology and Service Contracting Workforce: Congress should establish, in substance, standards for workforce skills for service contracts and information technology (IT) programs that are equivalent to those required for major weapon systems.

In Fiscal Year 2008 the Department of Defense obligated about $200 billion for contractor provided services. It also spent $32.1 billion on information technology. As a percentage of all procurement spending, Pentagon spending for services approaches the 60 percent mark. Nevertheless, the defense acquisition system remains a one-size-fits-all process designed around buying major weapon systems.

The issue is further complicated by the fact that the acquisition workforce, including both those working in contract development and, later, on contract management, is trained mostly on the procurement of goods rather than services. The problems with IT procurement are two-fold. The challenge facing the Department is not that the technology is too advanced; it is that the culture for procurement is not working and needs to change. Acquisition authority and expertise are spread across several organizations, resulting in a lack of timely enterprise-wide architecture and coordination, and subject-matter competencies required for successful IT acquisition are too often missing. The Task Force was pleased to see Congress, in particular the House Armed Services Committee in the 2010 National Defense Authorization Act, recognize the importance of the IT acquisition issue and require DoD attention to this important area.

Funding from Congress is also a problem. The pace at which Congress acts often leads to procurement of IT that is out-of-date by the time it is purchased. The solution lies in educating the acquisition workforce of the future to become better buyers of products and services and streamlining the approval process. The question of whether the current acquisition system has enough flexibility to accommodate IT technology cycles and the unique requirements of service contracting also needs a conclusive answer. In the Task Force's view, the answer is that it currently does not. The current active engagement in this area will be necessary to achieve change.

Of primary importance will be determining the skill-sets workers involved in services and IT acquisition need to possess. Defining skill-sets for different positions and functions will be required, and

appropriate training and certification regimes developed. Finally, a process to evaluate worker performance should be developed, as well. Passage of the Services Acquisition Reform Act of 2003 (SARA) acknowledged the government-wide need to enhance the skills of and help the government hire workers with service contracting experience. However, a recent survey indicated that from fiscal years 2000 to 2005 DoD contracts of all types increased by 100 percent, while its acquisition workforce remained static, leading one to surmise that the effects of SARA have been underwhelming at best.

The Task Force recognizes that interest is being generated in the area of service contracting—especially with respect to wartime contracting in Iraq and Afghanistan—and, as noted earlier, on the subject of the special requirements for the acquisition of IT. However, we find very little to support an assessment that "help is on the way" anytime soon. We believe that fast-tracking workforce training to improve oversight of service contracting and the procurement of IT would significantly improve system performance, particularly since these functions continue to claim an increasing share of defense procurement dollars.