Innovation is the in-vogue buzz-word these days, especially at the Department of Defense.

Dr. Ash Carter, Secretary of Defense, recently visited Silicon Valley in search of innovation.

The Hon. Frank Kendall, USD (AT&L) has announced a new initiative – *Better Buying Power 3.0* – in order to mandate innovation.

The Pentagon announced it's entering the venture capital business (via a company called *In-Q-Tel*) in order to invest in innovation.

We've written several articles on the topic, and we just finished speaking about it at the annual BDO/Public Contracting Institute Executive Seminar.

The concept of *innovation* is pervasive across not only the defense industrial base but also across the commercial industrial base. It's a focal point in policy memos and on everybody's lips in policy speeches.

It's everywhere.

So let's all agree that innovation (and the related notion of agile development) is the current end-goal in the minds of DoD policy-makers, as elusive as it may be for them to achieve.

We've written several articles about innovation and now we've publicly spoken about it. (In our biased viewpoint, the speech was very well received and generated lots of interest.) It's not that we claim any special expertise; it's that we have now seen (first-hand) what innovation and agility looks and feels like. And thus our experience informs our opinion on the topic. Unlike many others searching for innovation, we know whereof we speak. So there's a sense of a moral imperative to point out the challenges inherent in obtaining what the DoD policy-makers say they want.

In our articles and in our remarks we've mostly expressed skepticism and doubt that innovation actually can be achieved by the Pentagon bureaucrats and policy wonks. Fundamentally, we don't think you remove process barriers by adding more processes. Looking at the various stakeholders, we don't think the stars are aligned (as they were in the mid-1990's) such that Congress is ready to willingly repeal statutory requirements it has imposed on defense contractors. Similarly, we don't think there's much appetite in Fort Belvoir and Fort Lee for fundamental reform of DCMA and DCAA—even though pretty much every DCAA and DCMA employee we speak with one-on-one acknowledges the real need for such fundamental reform.

And there are other barriers to achieving innovation that would need to be removed, fundamental barriers that go to the heart of Federal civil service. For example, there is a huge generation gap between the buyers at DCMA and the would-be sellers in Silicon Valley. Depending on which article you read, something like 55% of the DoD civilian workforce is over the age of 50 and eyeing retirement. In contrast, the vast majority of Silicon Valley entrepreneurs and cyber-coders is about half that age. How does one overcome that generational gap? That's just one of the barriers between Northern Virginia and Silicon Valley. There are many more that we could list, if we were of a mind to do so (and if you had the patience to read them all). Indeed, we listed many of those barriers in our public remarks, and heard near-unanimous agreement from the audience—which included at least one senior DCMA employee.

But let's assume for the sake of argument that those barriers can be overcome. Let's assume that the Pentagon and Congress and OFPP and DCMA and DCAA all agree that doing business with Silicon Valley and accessing all that beautiful innovation and agility is worth the

price of admission. As a result of that agreement, in our hypothetical scenario the stars align and special exemptions are carved-out for Silicon Valley companies that are willing to do business with the Pentagon.

Let's discuss what the "price of admission" might be. Let's discuss what statutory and regulatory exemptions might be waived for those innovative Silicon Valley companies the Pentagon has been wooing.

For those special companies—

- No requirement to submit cost or pricing data
- In fact, no proposal is required whatsoever because we're talking partnership here
- No requirement to have an adequate accounting system
- No requirement to submit a proposal to establish final billing rates
- No business system requirements
- No cost allowability requirements
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No audits by DCAA whatsoever; instead, the external audit by an independent CPA firm will be acceptable

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Full funding obligated at time of award, even if the effort is expected to take more than one year

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No contracts awarded; instead, grants of money will be made with no contractual requirement to deliver anything in return. It will be "best efforts" only.

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No termination for default clauses, because failure is always an option

And that's just for starters. As we see it, the foregoing list would be the *bare minimum* necessary to get the next Apple or Facebook or Google to starting playing ball with DoD.

But put all that aside for a minute and let's just assume it all happens and there is now a beautiful win/win relationship between the entrepreneurs of Silicon Valley and the buying commands of DoD. Let's just dream for a few moments.

In that dream, where and when does the innovation happen?

Does the innovation happen before award, where an amazingly agile Silicon Valley company comes to In-Q-Tel (or its equivalent) with an innovative idea? In this scenario, somebody pitches somebody else and the pitch is a story where a future capability is created. That capability sounds amazingly useful and so the Pentagon throws some money at the company, knowing all the while that the money may be wasted if the company can't make its uber-cool innovative vision a reality.

Or does the Pentagon instead send its pitchpeople to Cupertino and environs with a need, a requirement, a notion of what might be amazingly cool and useful for the warfighters? Do they take a half-baked requirement or need from somebody, one that hasn't been fully vetted or approved by an official Decision Authority (because obtaining that approval would take too long and involve too many bureaucrats), and try to sell it to a Silicon Valley company—any willing company—that might be in position to actualize the vision?

And do those pitchpeople then go from company to company, trying to interest somebody in spending taxpayer funds—knowing all the while that just to make each pitch requires the Silicon Valley company to execute a Non-Disclosure Agreement with the teeth of a raptor, since National Security is involved? In this scenario, the DoD folks schlep from business park to business park, from incubator to incubator, from office to office, until at long last they find the right people with the right skills—and the need for funds—to make it happen.

Is that how it works?

Because if that's how it works, it's going to take a lot more than market research and Requests for Information. Finding that marriage between need and capability, between requirement and willingness, is going to be a challenge. It can be done, of course, but it won't be by any means currently found in the FAR.

We remain skeptical.

But if the innovation isn't identified before award, maybe it happens during performance of planned work scope. Maybe the DoD awards a grant or a CRADA or a TAA to a company with a firm goal in mind, an SOW that specifically identifies the innovative item to be created. Let's call this "planned innovation," if you will. If that's how it works, then the innovation is really found in the requirements planning phase, not performance, because in order to achieve innovation the end-users first need to know what they want, so they can put it under contract. We don't really see that working out for anybody.

Moreover, if that's how innovation works then you might as well issue solicitations and obtain

competition, because if you can describe what you want to achieve, there's a good chance multiple companies can design it for you. And there will be many companies willing to spend your taxpayer funds, even if they're not located in Silicon Valley.

Is that how it works?

Because if that's how it works, it looks and feels just like DoD development contracts today. And it will take just as long to achieve, and cost just as much. That can't be the plan, can it?

But if the innovation isn't identified before award and it's not planned in the SOW, then maybe it happens unexpectedly during performance on a traditional development contract effort. Maybe DoD awards a grant or a CRADA or a TAA to a company with a firm goal in mind, but then sometime thereafter the company innovates: it invents the quintessential "better mousetrap" while performing against that contract vehicle. Then the company tells the DoD technical folks about it, and the technical folks tell the buyers and contracting folks. And then whatever the original Pentagon goal was is now history because an innovative idea has been found, one that makes the original goal less valuable and less worthy. So the original goal is jettisoned and the new goal is substituted in its place. Somebody writes a report and sends it up the line (to a central DoD Innovation Office, we presume).

And now everybody is happy. Innovation has been achieved and officially acknowledged!

And no other company protests that what just happened is a cardinal change that should have (by law) required a new procurement, with a new solicitation and a new source selection decision—and that failure to do all that violated the Competition on Contracting Act (CICA).

And of course, in this scenario, the Silicon Valley company (the innovator) willingly signs over its Intellectual Property because *patriotism* (and because of the original DoD funding). No lawyers get involved at this point. Nope.

And the Pentagon folks then take that IP and hand it over to a traditional defense contractor (after a solicitation, source evaluation, and source selection, of course) to productionize it. Or

maybe the Pentagon says “urgent and compelling circumstances” or “national security” and foregoes the traditional competition, and just hands the IP over to Lockheed Martin or Boeing or Northrop Grumman (or any of the other big dogs) and says, “Make that.” And *lo and behold*, it is done.

Without complaint from Congress or the news media or the watchdog organizations.

Without complaint from the original innovator that their IP was just handed-over to somebody else, so that another company could make a profit from its original idea.

Um, yeah. *Sure.* Why not? Maybe it *would* work like that. Since we’re dreaming and all.

And in our dream nobody in the military service says, “Wait a minute. Our doctrine calls for ‘X’ and you stopped working on ‘X’ and now you’re working on ‘Y’—which is great in theory but we haven’t trained for it and we don’t know how to use it and, besides, that’s an initiative of that other branch of the military, which is not our branch, and so we don’t like it. And we won’t use it.”

Because this is all a dream, that won’t happen. No inter-service rivalry or focus on last year’s training and doctrine will impact the decision-making to adopt the new widget or cyber-weapon or whatever the “better mousetrap” turns out to be. (See our article on the DCGS vs. Paladin controversy, **here** .)

Yeah, none of that will happen.

Because, you know, *innovation*. It’s like a magic word that unlocks all doors and crosses all barriers.

Yeah, *sure*. In our dreams.

So as you can plainly see, we foresee lots of problems ahead. They are *not* insoluble problems, mind you. They can be solved with sufficient will and sufficient leadership. But make no mistake: they are tough challenges that will require
fundamental changes
to the current defense acquisition environment. Really fundamental changes that we don't think the current bureaucrats and policy wonks have the will or the political capital to pull-off, no matter how lofty and desirable the prize.

Before any of those tough challenges can be tackled, before any of those fundamental changes can be enacted, we think the first step is to think through this whole innovation and agile development thingee—given that the word itself carries no magic and opens no doors and crosses no barriers. Before engaging in the quest for innovation, one should have a pretty firm idea as what it will look like when it's achieved.

We think the first step is to answer some key questions, such as: What does innovation look like, and where does it show up in the acquisition lifecycle? We have attempted a thought experiment in this article in order to explore those questions. But we're not the ones who have to answer them: the leaders in the Office of the Secretary of Defense have to provide the answers, and the strategic guidance that goes along with those answers.

Until those questions (and others) are answered, we strongly suspect the quest for Silicon Valley innovation is just another mythical quest, like searching for the Holy Grail. In this modern-day quest, the Pentagon bureaucrats and policy wonks will be starting their quest with no idea what the Holy Grail looks like. They'll be looking for a needle in a haystack with no notion what a needle looks like, or what they would do with that needle, were they to be fortunate enough to find it.

And starting a quest with no notion as to how it will be achieved, and where and when the Holy Grail will be found, and no idea what the goal even looks like is *fine*. It's just dandy. That's what makes it a quest!

Unless you are using taxpayer funds. In which case, that quest starts to look and feel much like a boondoggle.

In our next article on innovation, instead of complaining all the time we will venture some ideas of our own as to how Silicon Valley innovation might be fostered. We will publish some notions as to how statutory and regulatory exemptions might be carved-out, and where in the acquisition process those carve-outs might occur.

Until then: *innovate*.