

Thornberry Tackles Acquisition Reform

Written by Nick Sanders
Monday, 23 April 2018 00:00



Representative Mac Thornberry (R-TX) has emerged over the past few years as one of the House's most vocal advocates for defense acquisition reform. Earlier this week, his office released two pieces of "draft legislation" that would significantly impact the Pentagon and how it buys goods and services in support of U.S. warfighters.

The [first piece](#) —the one that's getting the lion's share of the press—focuses on eliminating seven Pentagon agencies in order to cut \$25 billion (or 25%) from the Pentagon's "fourth estate." According to one article (link in previous sentence) "the Fourth Estate is comprised of 28 agencies that are not part of a military service and employs 200,000 civilian personnel and nearly 600,000 contractors." [Another article](#) quoted Thornberry as saying, "To summarize the whole thing from my perspective, it is reduce the overhead to put more resources at the tip of the spear."

Long-time readers may recall similar words from former SECDEF Robert Gates, when he spoke about cutting DoD overhead by \$100 billion in order to move "tail to tooth". See [this 2010 article](#) . Or

perhaps

[this one](#)

. Several constituencies supported the Gate's "efficiency" initiative, including the Defense Business Board. In addition, President Obama gave public support to it as well.

Despite the support from the top and the support from the DBB (and from some think-tanks), the Gates plan didn't seem to go anywhere. Not much seems to have been accomplished. It took us about six years to understand that the effort was [sabotaged](#) by Dr. Ash Carter (who became SECDEF at the end of the Obama administration) and his subordinate, Frank Kendall. Those two individuals foiled the Gates initiative by attempting to bury a McKinsey study (commissioned by the DBB), a study that had concluded that the Pentagon could save up to \$125 billion (over

Thornberry Tackles Acquisition Reform

Written by Nick Sanders
Monday, 23 April 2018 00:00

five years) by better managing its Fourth Estate Bureaucracy.

\$125 billion over five years. Or about \$25 billion per year. Or about the same amount that Mac Thornberry's draft legislation purports to save.

Coincidence? We think not.

But enough of that. We want to focus on Thornberry's [second piece](#) of draft legislation. As the Federal News Radio article (authored by Jared Serbu, link in previous sentence) reports, "most of the changes Rep. Mac Thornberry (R-Texas) is proposing were first recommended by the Section 809 Panel, an 18-member team of acquisition experts Congress commissioned in 2017 to provide advice on how to streamline the system."

Readers will note that we've been talking about the Section 809 Panel for some time. [Our article](#)

discussed recommendations from the Panel's first Report. We heartily agreed with those "bold recommendations for reform." Among the 24 official recommendations (many of which had multiple subparts), the first four addressed how the Pentagon acquired "commercial" goods and services. We noted some aspects of the issue in

[this article](#) about DoD's attempts to reform its commercial item buying practices.

More recently, we have been skeptical that the Section 809 Panel's recommendations would survive attack by entrenched stakeholders. We are pleased to be proven wrong, at least to the extent that Rep. Thornberry (and his staff) have taken the Panel's recommendations on commercial item acquisitions and proposed them as draft legislation. As Mr. Serbu's article summarizes—

The bill also takes aim at another of the main focus areas the 809 panel addressed in the first full volume of its report, which was released in January. The panel found that DoD has been backtracking on what is supposed to be a preference for commercial items, and the use of simplified procedures to buy them. The percentage of its dollars spent on commercial goods and services dropped 29 percent between 2012 and 2017. That's partially because both Congress and the department itself have made the process for buying commercial items

Thornberry Tackles Acquisition Reform

Written by Nick Sanders
Monday, 23 April 2018 00:00

increasingly complex over the past 20 years, including by increasing the number of government-unique contract clauses they impose on commercial firms by 188 percent, and [quintupling the number](#) of requirements that flow down to those companies' subcontractors.

The panel found DoD's regulations include upward of 40 sometimes-contradictory definitions of what constitutes a commercial item. The Thornberry bill attempts to revert to Defense Department to just two: one for commercial goods, another for commercial services.

Contractors that have struggled to convince contracting officers that their goods and services meet the definition of "commercial item" will no doubt welcome reform efforts in this area. We know of at least one small business that gave up after nearly a year of trying to convince a skeptical CO that its item met the definition (and it did). So anything that streamlines this area is fine by us.

Another area in which the draft Thornberry legislation borrows heavily from the Section 809 Panel recommendations in the area of small business contracting. The Section 809 Panel made a couple of recommendations, including:

Rec. 21: Refocus DoD's small business policies and programs to prioritize mission and advance warfighting capabilities and capacities.

21a: Establish the infrastructure necessary to create and execute a DoD small business strategy, ensuring alignment of DoD's small business programs with the agency's critical needs.

21b: Build on the successes of the SBIR/STTR and RIF programs.

21c: Enable innovation in the acquisition system and among industry partners

Thornberry Tackles Acquisition Reform

Written by Nick Sanders
Monday, 23 April 2018 00:00

David Drabkin, who replaced Dee Lee as the Panel's Chair, was quoted in Serbu's Federal News Radio article as saying, "we looked at the various activities that the department has to reach small businesses, we found that they had lots of folks who went to various meetings in places that tend to be attended by people who already do business with a government. They really didn't have a focus on going to programs, shows, associations where there were people who didn't do business with the government. And when we looked at DoD's industrial base office, while they had a mission to look at the whole industrial base and try to identify the department's needs, they really weren't focused on small businesses."

Although details of Thornberry's exact small business reforms are a bit sketchy at the moment, we believe they implement the spirit (if not the letter) of the Section 809 Panel's recommendations.

It's gratifying to see that at least one member of Congress is taking the Section 809 Panel's work seriously. The problem, of course, is moving from a "draft legislation" to a final bill to signed public law. As the Washington Post [reported](#) : "His legislation will probably be met with resistance from lawmakers who are fiercely protective of military-related jobs in their congressional districts, as well as from parts of the Pentagon itself, which has a track record of defeating or slow-rolling restructuring proposals."

Still, we can hope, can we not?

The defense acquisition environment is widely thought to be in dire need of reform. Some say it's broken completely; others say it's so broken it cannot be fixed. But we say we have to keep on trying to fix it, no matter if the efforts are ultimately Sisyphean, in that the efforts are endless and, ultimately, without significant result. To give up is to surrender hope that the system can be rationalized.