

STATEMENT BY
MR. SHAY D. ASSAD
ACTING DEPUTY UNDER SECRETARY OF DEFENSE
(ACQUISITION & TECHNOLOGY)

BEFORE THE
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, ORGANIZATION &
PROCUREMENT
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES

DEPARTMENT OF DEFENSE
DEFENSE PROCUREMENT AND ACQUISITION POLICY

THE STATE OF FEDERAL CONTRACTING: OPPORTUNITIES AND
CHALLENGES FOR STRENGTHENING GOVERNMENT PROCUREMENT AND
ACQUISITION POLICIES

JUNE 16, 2009

Madame Chair Watson, Ranking Member Bilbray, Members of the Subcommittee:

My name is Shay Assad and I am the Director of Defense Procurement and Acquisition Policy. I am also presently serving as the Acting Deputy Under Secretary of Defense for Acquisition and Technology, in the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics (AT&L). After serving tours on board two Navy destroyers, I began my career in acquisition thirty-two years ago as a Naval Procurement Officer at the Naval Sea Systems Command. I left the Navy in 1978 and joined the Raytheon Company. Over my twenty-two year career at Raytheon I held a variety of contracting and operational positions ultimately serving as a corporate Vice President, a Senior Vice President, and finally, as Corporate Executive Vice President and Chairman and Chief Executive Officer of one of its major subsidiaries. I retired from Raytheon in July 2000. In 2004, I entered Government service as the senior civilian contracting official for the U.S. Marine Corps where I was responsible for, among other things, all Marine Corps contracting in a combat environment. In April 2006, I was promoted to serve as the Director of Defense Procurement and Acquisition Policy where, among other things, I am responsible for all contracting policy related to contracting in a combat environment. I am also the functional leader for those who do contracting in a combat environment.

I want to thank you for the opportunity to appear before you and to participate in today's discussion. I'll begin with a short opening statement; my longer official written statement has been provided earlier to be included as part of the record

In January 2007, I testified before the Senate Armed Services Committee, Readiness and Management Support Subcommittee. At that hearing, I was asked to comment on the then recently completed work of the Acquisition Advisory Panel, an entity created by the Congress and authorized by Section 1423 of the Service Acquisition Reform Act of 2003. At that time, I testified that I agreed with most of the Panel's recommendations and that we would be busy addressing the recommendations of their report. Today's hearing provides an excellent opportunity to provide an account of where we are with respect to the Panel's recommendations and how will we move forward in light of present circumstances. In fact, the Congress has since taken up many of the Panel's recommendations, adopted into law via the National Defense Authorization Acts for Fiscal Years 2008 and 2009. The Panel's thoughtful report continues to provide a framework for improvement and to inform on-going initiatives relating to commercial practices, performance-based acquisition, small business utilization, acquisition workforce, the role of support contractors, and the use of federal procurement data.

The most significant element of the Acquisition Advisory Panel's comprehensive body of work that has since been addressed by both the Congress and the Department of Defense has been the recommendations relating to the acquisition workforce. The Panel rightly recognized there has been a "mismatch between the demands placed on the acquisition workforce and the personnel and skills available within that workforce to meet those demands." In 2001, the Defense Department spent \$138 billion on contracts, and in 2008 spending reached \$396 billion -- \$202 billion of it was for services. During this period, the size of the organic Defense acquisition workforce (civilian and military)

remained relatively flat while dollars spent on contracting actions over \$25,000 more than doubled. Additionally, there was also a significant increase in use of contractor support personnel

On April 6, 2009, the Secretary of Defense announced his intention to significantly improve the capability and capacity of the Defense acquisition workforce by increasing the size of the workforce by 20,000 through fiscal year 2015. This will restore the organic acquisition workforce to its 1998 levels of approximately 147,000 and address long standing shortfalls in the Defense acquisition workforce. It is the first significant growth since the military build-up in the 1980's and the downsizing that occurred during the 1990's. The Secretary's initiative is the overarching human capital strategy to revitalize the acquisition workforce.

The Department's growth strategy directly supports the President's March 4, 2009 memorandum's objective to ensure the acquisition workforce has the capacity and ability to develop, manage, and oversee acquisitions appropriately. The Defense acquisition workforce is critical for improving acquisition outcomes for the nation's \$1.6 trillion investment in major systems. The objective is straightforward: to ensure DoD has the right acquisition capability and capacity to produce best value for the American taxpayer and for the soldiers, sailors, airmen and marines who depend on the weapons, products and services we buy.

This strategy increases the size of the acquisition workforce by 15% -- 20,000 through fiscal year 2015. As an integral part of this strategy, the Department will convert approximately 10,000 contractor support positions to full-time government employee

positions. This will create a better balance between our government workforce and contractor support personnel and ensure that critical and inherently governmental functions are performed by government employees.

The Department's strategy will increase and improve the Department's oversight capabilities, thereby ensuring we get what we pay for; ferret out waste, and assist in combating contract fraud. We will increase our contracting and contract oversight workforce, to include the Defense Contract Management Agency and the Defense Contract Audit Agency. We will increase our organic acquisition and program management capability, such as program managers, systems engineers, and other acquisition professionals. This will also include critical professionals such as our competition advocates and small business specialists. The Components have done extensive bottoms up planning and have started deployment of growth hiring and other workforce initiatives which support the Secretary's strategy.

A key part of the Department's strategy to improve the Defense acquisition workforce is to build up our contract pricing capability. In order to ensure we get a better deal for the taxpayers and the soldiers, sailors, airmen and Marines who depend on the weapons, products and services we buy, we will add approximately 800 contract cost/price analysts to the workforce through FY 2015. To align our policy and pricing organizations with the Secretary's strategic vision, the Office of Defense Procurement and Acquisition Policy (DPAP) is working with the Department's Senior Procurement Executives and the Defense Acquisition University ensure the contract pricing workforce is properly sized, equipped, and trained. Our objective is to ensure that the contract

pricing workforce has the right capability and capacity to ensure we are paying fair and reasonable prices for the weapons, products, and services we buy. As part of that effort, for example, we just held and sponsored a two and one half-day Contract Pricing Conference that was attended by over 300 Government pricing and contracting professionals from 84 separate military commands or DoD organizational units and nine Federal (non-DoD) agencies.

An important element of workforce success is employee satisfaction and motivation. Through the Defense Acquisition Workforce Development Fund, we have numerous initiatives under way that will improve the employee value proposition for our acquisition professionals and the attractiveness of an acquisition career. These initiatives include deliberately improving the technical and leadership capability of our military and civilians. We will also improve our employee recognition programs by expanding awards for top performing exceptional individuals.

Of course, many of the Acquisition Advisory Panel's findings and recommendations related to the acquisition of services. In Fiscal Year 2008, approximately half of the Department's contract obligations were associated with the acquisition of services. The magnitude of this activity demands a disciplined oversight framework. We have developed and implemented that framework employing a strategic, department-wide approach to improve the effectiveness of DoD contract management with specific emphasis on contracting for services. This comprehensive architecture for the acquisition of services executes the requirements Congress established in Section 812 of the National Defense Authorization Act for Year 2006. We have refined the process

to require the Military Departments and defense agencies to submit to OSD for review and approval all acquisition strategies for service acquisitions valued at \$1 billion or more to ensure these programs employ the basic tenets that are foundational to success. For example, we are using the opportunity provided by the review and approval process to shape service acquisitions to severely curtail the use of new time and materials contracts and to demand competition for task orders on indefinite delivery, indefinite quantity (IDIQ) contracts. These are two significant areas that the Acquisition Advisory Panel addressed in their report.

The Acquisition Advisory Panel also noted that post-award contract monitoring needs to be improved. The National Defense Authorization Act for Fiscal Year 2008 picked up on this finding in the Section 808 requirement for the Department to implement “Independent Management Reviews” of service acquisitions in the post award phase. The Department’s implementation approach for Section 808 entails a robust Peer Review process to influence consistency of approach, ensure the quality of contracting, and drive cross-sharing of ideas (best practices and lessons learned). For all acquisitions valued at \$1 billion dollars or more, the Department assigns an independent Peer Review team, which is comprised of senior contracting leaders and attorneys from outside the military department or defense agency whose procurement is the subject of the review, to meet with acquisition teams to assess whether the acquisition process was well understood by both government and industry. Similarly, Military Departments and defense agencies have developed and are executing plans to accomplish Peer Reviews within their respective organizations for acquisitions valued at less than \$1 billion. Since the

beginning of Fiscal Year 2009 when the Peer Review initiative was instituted, the Department's senior leadership has conducted 31 Peer Reviews; 20 of which were for service acquisitions. Peer Review teams travel to the site of the executing acquisition organization and the process involves three phases before contract award as well as assessments after contract award to critically assess the program and provide recommendations to improve the business arrangement. Executing acquisition teams receive immediate feedback and are held accountable to address disposition of Peer Review team recommendations. In addition, the broader DoD acquisition community will benefit as we disseminate information about the trends, lessons learned and best practices that have been identified in the course of the Peer Reviews.

To provide a common basis for review at all levels, we have issued "Criteria for the Acquisition of Services." This policy articulates the specific tenets that comprise DoD's Architecture for the acquisition of services. There are twelve (12) tenets that are assessed prior to contract award. Nearly all of these tenets mirror the findings of the Acquisition Advisory Panel. For example, one tenet emphasizes the imperative of developing service acquisition requirements in such a way that can be clearly articulated in the contract in performance-based terms. Our focus on this aspect is reflective of the Panel's finding that solicitations often include only a loosely defined statement of functional requirements. In addition, the Department employs eight (8) tenets which are assessed in post-award Peer Reviews. One key post-award tenet entails a critical assessment of whether or not the program has adequate contractor surveillance in place—another focus area from the Panel's report. The associated review criteria provided by

this policy form the basis for metrics to gauge the degree to which the architecture is being implemented to achieve the desired performance and results across the Department.

We are also using Strategic Sourcing to more effectively acquire services. For the Department, the foundation for Strategic Sourcing (SS) is spend data and portfolio analysis and management. Each year, the DPAP SS office performs spend analyses of services and supplies and equipment and provides the information to the Military Departments and Other Defense Agencies to improve decision-making and sourcing strategies. To perform a comprehensive analysis of DoD spend, the SS office developed 15 portfolios based on similar goods/services. These portfolios are standard across the annual spend analyses. The office first analyzed services spend in FY06 and issued the Strategic Plan for the Strategic Sourcing of Services in October 2008. In FY09, it completed its first spend analysis of supplies and equipment to achieve a 360-degree view of DoD procurement spend. Now that the analysis of supplies and equipment is complete, we will update the Strategic Plan to include direction for the procurement of supplies and equipment.

In May FY09, the Department began to focus on the alignment of best sourcing approaches within portfolios across the 69 DoD contracting activities. Aligning best practices within portfolios facilitates optimum uses of contract types, contract administration, acquisition IT tools, and organizational models with the result of efficiently and effectively meeting mission needs. It also improves competencies of the acquisition workforce by fostering functional and specialized skills within these portfolios. Initially, the Department will pursue the portfolios of Knowledge Based

Services (to include Advisory and Assistance type contracts) and Medical Supplies and Equipment. Joint working groups, comprised of senior acquisition professionals with portfolio-specific experience and skills, will review the DoD annual spend analyses, identify best practices within their respective portfolios, and provide recommendations for implementing these best practices across the Defense enterprise.

The Department has also issued guidance on the proper use of award fees following a December 2005 Government Accountability Office report and recent legislation. The intent of the guidance to ensure award fees are linked to desired outcomes and commensurate with contractor performance. In addition, in our peer reviews of all acquisitions over \$1 billion, we examine how the Defense Components are using award fees to improve contractor performance. The Department is also in the process of revising the Defense Acquisition Regulation Supplement to incorporate related changes required by Section 814 of the FY 2007 National Defense Authorization Act, Section 9016 of the FY 2007 Defense Appropriations Act, and the FY 2009 National Defense Authorization Act. Although the Department still has more work to do, a (discussion) draft 2009 follow-up GAO report indicates that revised policies that have been applied have resulted in hundreds of millions of dollars in cost savings and better use of government funds.

Additionally, as all of you know, the Department is aggressively pursuing major reforms to our acquisition system. These efforts have been given a very high priority by President Obama and Secretary Gates and have recently been complemented by the strong bi-partisan commitment to reform registered by Congress via the Weapons

Systems Acquisition Reform Act. Let me take a moment to mention some of reforms we have underway:

(1) To improve the discipline of the acquisition process:

--Each major program will be subject to a mandatory process entry point, the Materiel Development Decision prior to Milestone A. This will ensure programs are based on approved requirements and a rigorous assessment of alternatives.

-- To reduce technical risk, refine program requirements and inform our cost estimates, our practice will be to conduct competitive prototyping and complete Preliminary Design Reviews before we initiate a program.

-- We will employ Independent technical reviews to certify the maturity of program technologies before we will permit a program to progress to the costly final phases of development. And finally,

--We will complete independent cost estimates at each key decision point in the acquisition process to ensure programs are adequately funded and to reduce the risk of costs spiraling out of control.

(2) To align profitability with performance, we have several initiatives. Contract fee structures will be tied to contractor performance. We will eliminate the use of unpriced contractual actions, whenever possible. And, we will ensure the use of multiyear contracts is limited to instances when real, substantial savings are accrued to the taxpayer.

(3) To prevent programs from ballooning in cost and stretching in schedule, we will use more fixed-price development contracts. We will also institute new mechanisms to prevent endless "requirements creep" in which the desire for an ever-elusive perfect system can result in no system being delivered at all.

Of course, none of these reforms will work unless we are prepared to reform or cancel weapons programs that are not on track to provide our warfighters what they need when they need it. Those hard decisions are reflected in our proposed budget for next year. In sum, the Department is determined to improve the effectiveness of our acquisition system. As Secretary Gates and Deputy Secretary Lynn have mentioned, being tough minded on acquisition reform is part of being serious about a strong defense. Every dollar we save through acquisition reform is another dollar we can devote to the capabilities our troops need today and tomorrow. This is what the American taxpayers expect and what our warfighters deserve.

Going forward, one of the significant elements of the Panel's work that has yet to be fully addressed are the recommendations relating to the proper role of support contractors. As noted earlier, the Department will convert approximately 10,000 contractor support positions to full-time government employee positions, ensuring that critical and inherently governmental functions are performed by government employees. On May 28, 2009, the Deputy Secretary of Defense issued guidance to assist DoD Components with developing and executing plans to meet these requirements. He noted that our planned in-sourcing is a high priority of the Secretary of Defense and that in-sourcing has been included as a metric in the Department's Performance Budget

submission. The Deputy Secretary will be receiving quarterly reports on the Department's progress.

The Department is also reviewing the requirements of the recently passed Weapons System Acquisition Reform Act of 2009, Public Law 111-23, and assigning responsibility for implementation within the Department. We recognize that there will be required changes to 5000.02 and the Defense Federal Regulation Supplement and personnel actions to be undertaken. We will be proceeding with these efforts expeditiously.

SUMMARY

Again, thank you for the opportunity to address current initiatives for the Defense acquisition workforce. I look forward to working with you and keeping you apprised of our progress. Thank you for your support.