Statement before the Senate Committee on Armed Services Subcommittee on Readiness and Management Support on “An Update on the State of the Department of Defense Acquisition System”

The State of the Defense Acquisition System, 2024

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Chairman Hirono, Ranking Member Sullivan, and other distinguished members of the subcommittee, I would like to thank you for the opportunity to testify this afternoon on the state of the Department of Defense's (DOD) acquisition system, to include recent changes to the acquisition system, especially those made in response to congressional direction.

The defense acquisition system works as well as can be expected given the many, and oftentimes conflicting, mandates it must meet in law, executive orders, regulation, and policy. With enough time, the system can eventually provide demonstrated capability to the warfighter, account for the expenditure of taxpayer dollars, and guard against corruption. The acquisition workforce is stressed and overworked but is committed to complying to the best of their ability with all required mandates. The system is neither efficient nor cost effective, but it is for the most part fair and deliberate.

Still, DOD's legacy acquisition system is too slow to be competitive and is only incrementally innovative. The industrial base and the overarching defense acquisition system (research, development, acquisition, contracting, requirements, budget, and logistics) have been optimized for a peacetime cadence after 30 years without a great power competition or conflict. This limited threat environment and a false assumption that US defense technological dominance will continue to exist has crowded out the importance of time in terms of decision-making, process, and innovation.

The Pentagon has rapidly fallen behind the commercial sector and is in danger of falling behind our adversaries. Commercial industry continues to move at the speed of Moore's law while DOD acquisition moves at the speed of its outmoded linear processes and bureaucracy. Commercial innovation is in the process of revolutionizing defense and now dominates 11 of the 14 technologies that DOD has identified as critical to its future.[1] Even in the three areas that DOD has identified as defense-specific, there is a significant commercial interest and future application, just as was the case with defense-specific space technology decades ago.

As the threat changes, our acquisition system must be flexible enough to adapt to disruptive new technology trends in real time. In 2015, shocked by the invasion of Crimea and the militarization of the South China Sea, then SASC Chairman McCain saw that the threat was indeed changing and that the US needed new acquisition tools to meet it. It has been almost 9 years since this Committee passed the first McCain-sponsored reforms that provided alternatives to the one-size fits-all, time-consuming, defense acquisition system. DOD was given the tools to not only move fast with non-traditional sources of innovation, but to quickly hire the acquisition workforce necessary to implement a time-based commercially equivalent acquisition approach.

Removing non-commercial requirements and going around bureaucratic processes were at the heart of these acquisition reforms. Production Other Transaction Authority (OTA), Middle Tier

[1] Jaspreet Gill, "Pentagon's 'Glaring Weakness': Bureaucracy Hampering Commercial Tech Adoption," Breaking Defense, April 7, 2022, https://breakingdefense.com/2022/04/pentagons-glaring-weakness-bureaucracy-hampering-commercial-tech-adoption/ and https://www.cto.mil/usdre-strat-vision-critical-tech-areas/

of Acquisition (MTA), expanded authorities to contract with commercial and non-traditional contractors, flexible funding accounts, and the ability to hire Highly Qualified Experts (HQE) were all put in place by Congress in anticipation of emerging technology trends and a more taxing security environment.

Despite these reforms designed to elevate speed and the importance of time in acquisition by creating alternative acquisition pathways around the Pentagon's peacetime acquisition system, progress so far has been marginal at best. Without embracing the changes championed by this Committee in the past to speed acquisition time, DOD will not be capable of meeting the threats of the future.

Specific Issues of Concern to the Subcommittee

The following is a snapshot of where I believe DOD stands as far as implementation of these authorities, current issues of concern, and what can be done to better implement the reforms and flexibilities of specific interest to the Subcommittee. These include the adoption of flexible authorities in the Adaptive Acquisition Framework; perspectives on other transactions agreements, consortia arrangements, and commercial item procedures; supply chain issues; the acquisition workforce; data analytics to improve acquisition; and improving acquisition related to Foreign Military Sales.

Acquisition Authorities

Adaptive Acquisition Framework: It took almost four years for DOD to put in place the Adaptive Acquisition Framework that attempts to implement congressionally-passed flexible authorities. The subsequent widespread use of these tools has been unfortunately constrained by internal DOD bureaucracy, time-consuming approval processes for the use of these flexible authorities, and a seemingly risk-averse culture. Progress is being made, particularly with the use of MTA authority, but it is not fast enough and DOD is not taking clear advantage of the potentials of the authority.

Middle Tier Pathway: MTA authority, authorized in Section 804 of the 2016 National Defense Authorization Act (NDAA), is perhaps the most important authority DOD has in its current acquisition arsenal. The intent of this authority was to get 80 percent solutions into the hands of the warfighter as rapidly as possible in a time-constrained manner to compete with China. MTA comprises two separate authorities each designed around specific examples of DOD programs of the past that would not have been deployed if the traditional major weapon systems acquisition process was used.

The first is serial rapid operational prototyping designed to mimic the process used for the first reconnaissance satellites, intercontinental ballistic missiles, the B-52A-H transition, jet aircraft programs of the 1950s, and the first nuclear submarines–all deployed in less than 5 years' time. None of these systems would have been declared operationally suitable or effective by

today's operational testing criteria, but the US would have never been able to compete against the Soviet Union if it did not deploy these original innovations when it did. These systems then evolved in a series of serial, time-constrained, operational prototype efforts with limited production runs, resulting in, for example, the B-52 that is still operational today. Bridging together a number of serial MTAs was envisioned as a means to replicate this past successful developmental and acquisition process.

The second MTA pathway is rapid fielding and this was tailored after the Mine-Resistant Ambush Protected (MRAP) program. MRAPs were something that the combatant commander needed immediately and were an 80 percent solution. Moreover, if DOD would have conformed this program to the traditional defense acquisition system, the vehicles may still be in testing and development and thousands of US service members would have lost their lives unnecessarily.

Over 130 programs have gone through or are now using the MTA pathway. The Air Force was the first adopter under the last administration although this enthusiasm seems to have tapered off as the Air Force reverts back to more traditional acquisition methods. Special Operations Command (SOCOM) may now be the leading user of the authority. Early implementation of MTA was reported to have been held back by several years waiting for funds in the Planning, Programming, Budgeting, and Execution (PPBE) and appropriations processes. The Section 804 Rapid Prototyping Fund was envisioned as the means to kickstart these efforts, but the appropriators and DOD never funded it, so time was lost.

Indications are that process creep and the need for additional signoffs are emerging in the approval process for an MTA. There is also a danger that more traditional Major Defense Acquisition Program (MDAP) acquisition-type processes are now entering the MTA pathway. This would increase decision time to start an MTA and threaten execution time, taking a 5-year effort off the clock and turning it into an 8 to 10-year effort.

Despite these trends, there have been many success stories of the use of MTA documented by DOD and elsewhere.[2] Most significantly, the oversight community found that the MTA pathway is doing exactly what it was designed to do with the DOD Inspector General concluding that the "use of the MTA pathways increased efficiencies and effectiveness by streamlining acquisition processes and expediting prototyping and fielding."[3]

Despite this initial success, MTAs comprise only a small portion of DOD's budget and acquisition attention. Congress should focus on improving MTA decision time and look for process creep in the acquisition and requirements process that may slow down these efforts. It should also look to provide flexible funding to start these programs and get a head start before they enter the formal budget process.

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[2] Pete Modigliani, Dan Ward, and Matt Macgregor, "Get to Know the Middle Tier of Awesome… Er, Acquisition," Defense One, September 12, 2022, https://www.defenseone.com/ideas/2022/09/get-know-middle-tier-awesomeer-acquisition/377017/.

[3] Department of Defense, Inspector General, Audit of Department of Defense Middle Tier of Acquisition Rapid Prototyping and Rapid Fielding Programs, September 28, 2021, i, https://media.defense.gov/2021/Sep/30/2002864712/-1/-1/1/DODIG-2021-131.PDF.

Rapid Acquisition Authority (RAA) Pathway: This authority, designed to speed capability to the warfighter in under 2 years, was provided by Congress in the early 2000s and then evolved during the Iraq and Afghanistan conflicts. RAA included both flexible acquisition and budget authority. As with many flexible acquisition authorities, the processes to use these authorities appear to have lengthened and become more bureaucratized. Congress should review these processes to determine if combatant commanders' requirements are being well-served by the RAA pathway, and if there are better ways to do so.

It may become necessary to give the commander of Indo-Pacific Command (INDOPACOM) and other geographic commands limited Rapid Acquisition Authority to address urgent needs in their theater of operation. While some of the functional combatant commands such as SOCOM and Cyber Command have such limited acquisition authority, the geographic commands do not. Congress in the past gave the now defunct Joint Forces Command (JFCOM) limited acquisition authority to buy on behalf of the geographic commands. With JFCOM's disestablishment in 2011, that authority expired. It may be time to rethink that authority with respect to the geographic commands and restore and expand some of RAA's lapsed funding authority and transfer that to the geographic commands under a pilot program.

Software Pathway: The Adaptive Acquisition Framework now at least recognizes that software is different than buying a major weapon system. Still, the acquisition system is struggling with how to fund the development and continuous upgrades of software. The Defense Innovation Board said it best in that "software is never done." Our current colors of money and budget processes do not fit that paradigm. Since software is continuously changing and does not fit well within the traditional budget categories of RDTE and Procurement, it may require either the use of O&M funding or an expansion of the development of a new "software" color of money that is more robust and easier to use than the ongoing piloted software RDTE category.

Contracting has its own challenges with how to buy software as a service and what to do about intellectual property (IP) and the ownership of software code produced at a contractor's expense. This will impact how DOD will be able to successfully incorporate future artificial intelligence tools into its operations. There appears to be a movement to trying to "own" the software code and algorithms of whatever is provided to DOD. This is causing many vendors to reconsider working with DOD as they fear that their IP will be transferred to their competitors or that it makes no business sense to invest their capital on a one-time return with DOD.

Major Capability Acquisition (MCA) Pathway: Most of the money that DOD spends on weapons programs is found in this category. The traditional acquisition system has seen decision time to start a program and get it on contract rise from less than a year in the 1950s to closer to 9 years today, while time to initial operational capability or new innovation in the field has gone from 4 years to 10-20 years.[4]

[4] See William Greenwalt and Dan Patt "Competing in Time: Ensuring Capability Advantage and Mission Success through Adaptable Resource Allocation" Hudson Institute, February 2021. https://www.aei.org/wp-content/uploads/2021/02/Greenwalt_Competing-in-Time.pdf

There are several ways to attack this time problem. The predictive and lumbering requirements process forecloses innovation opportunities from the start as it is the gateway to the acquisition and budgeting system. The up to 3-year Joint Capabilities Integration and Development System (JCIDS) process is a significant driver in slow acquisition decision time and should be the next phase of acquisition reform. The 3+ year budgeting process now has a series of reforms for Congress to consider from the PPBE Commission. For something as large as an MCA/MDAP, it will be difficult to reduce the 2+ years to get to first contract award unless these programs are preceded by an OTA prototype award or a series of MTA prototyping efforts.

There is a need to streamline the MCA milestone acquisition process both in terms of decision time and execution. Formal Milestone (MS) A requirements in law are unnecessary and Weapon Systems Acquisition Reform Act of 2009-mandated requirements should be reviewed and streamlined. Nunn-McCurdy baselines are unrealistic and counterproductive and set the Department up to fail. Ultimately, and this will require a major culture change, most MDAPs using the MCA pathway should be crowning points in a series of MTAs or OTA advanced prototypes that lead to a capability that will be produced at scale. Thus, for most MCAs, it may be more appropriate to look at a new point of entry into the acquisition system – something closer to a MS B prime that is only a year or so out from a MS C production decision. MTAs and OTAs can be used to provide immediate operational capability while reducing risk to such a degree that the only need for an MCA is to produce something at scale.

Production at scale is something that the US will need a lot more of given current threats. All existing programs that currently have a production line should be considered national assets. Given geopolitical tensions, none of these should be closed down in the near future. These lines should maintain minimum viable production with executable plans in place to rapidly ramp up production even while developing new systems. The biggest lesson from Ukraine may be that you can never have too many munitions, missiles, or platforms and we should execute on that knowledge immediately.

Contracting Authorities

Commercial Item Procedures: For the last 30 years, Congress has been attempting to force DOD to restrain its desire for unique requirements and buy what is available in the commercial marketplace. The preference for commercial items is clear but the Department's contracting community keeps pushing back because it still does not know how to price goods and services from commercial contractors. While it is much easier for the contracting community to price Commercial-off-the-Shelf (COTS) products that you can buy at Home Depot, it has historically found it extremely difficult to buy "of a type" products and services that are not identical to what is being sold commercially. In essence, DOD struggles with how to price value.

As the definition of commercial items broadened in the last decade to include non-traditional contractors–i.e., those that do not contract via cost-type contracts–the commercial "of a type" problem has become moot as anything a non-traditional contractor sells is required to be treated as a commercial contract under Federal Acquisition Regulation (FAR) Part 12 procedures. Thus,

DOD is now forced into making value decisions about the price it pays from commercial companies as if it were a part of the commercial market.

One of the biggest issues with FAR Part 12 contracting has been contract clause creep. There has been a proliferation of unique government clauses that have been inserted into standard FAR 12 contracts that were not envisioned when this authority was created in 1994. This is making many commercial contractors wary of what they are signing up to and wanting to migrate to OTA contracting authorities. DOD was asked by Congress to scrub its contracting clauses for FAR 12 and recently reported back to Congress. From press accounts, it looks like very few clauses were recommended to be eliminated. This implies that DOD is still not serious about commercial contracting. Congress may have to take a firmer line and prohibit or limit the numbers of commercial contract clauses that DOD can use. If it doesn't, more commercial innovation will migrate to OTAs which is perhaps not the ideal situation.

Other Transactions Authority: If MTAs are the Department's most powerful acquisition tool, OTAs are its most powerful contracting tool. Bringing the two authorities together, as Congress envisioned in 2015, could revolutionize defense acquisition. OTAs are in essence a legal fiction: by being defined as a "transaction" and not a "contract," OTAs are not bound by contract law and the FAR. OTAs thus can be a blank sheet opportunity to negotiate true commercial business arrangements. Still, OTAs can also be filled up with all sorts of non-commercial contracting clauses and recent trends have seen the same type of non-commercial contract clause creep in OTAs as has been seen in FAR 12 commercial item contracting. Congress will likely need to push back on this trend as it will radically undermine not only congressional intent behind OTAs but the ability to work with the most innovative portions of the US industrial base.

The lineage of OTAs can be traced back to special "experimental" contracting authority from the 1920s that fostered innovation in aircraft development and carrier aviation. This authority was a part of DOD's DNA during WWII. As NASA was set up post-Sputnik, similar "other transactions" authority was granted to it as part of the 1958 Space Act. As the Cold War bureaucratized in the 1960s, the use of experimental authority waned to the degree that it was mostly forgotten. By the 1990s, its usage was virtually non-existent and Congress tried to resurrect it, first by creating a new research OTA authority and then by adding a prototyping authority.

In the 2016 NDAA, Congress went one step further by allowing for successful prototypes that were originally competed to proceed to rapid sole source follow-on production OTAs. This was designed to revolutionize and streamline DOD procurement with non-traditional sources of innovation, providing a means for these contractors to never come in contact with the FAR. In the same NDAA, Congress created another authority to serve as a baby step or a gateway to OTA usage and that was the Commercial Support Openings (CSO) process. This authority was essentially a template OTA process, although FAR usage was not ruled out. CSOs have been the primary model that organizations like the Defense Innovation Unit (DIU) have been using.

DIU's use of OTAs under the Commercial Solutions Opening process is to be commended. However, it seems that DIU has been constrained in considering or taking advantage of broader

OTA authority ever since Oracle's successful (but still limited in application) protest with the Government Accountability Office threw a wrench in DIU's REAN Cloud OTA. The Department in general has become more risk-averse in its use of OTAs after that decision and OTA usage has coalesced around CSOs for commercial solutions and consortia that have trended toward the traditional defense industrial base (DIB).

OTA consortia were first established over 25 years ago in the traditional defense industry (shipbuilding and munitions) as a way to better coordinate governmental R&D efforts and to encourage collaboration with the traditional defense industrial base that were precluded by acquisition rules and practices. But OTA consortia have shown the potential to be a primary method to work with the non-traditional industrial base as well.

In what is arguably the most successful use of an OTA (NASA's Space Act developmental service launch OTA with SpaceX to develop the Falcon 9 is another contender), Operation Warp Speed delivered a coronavirus vaccine in record time through an unexpected and clever use of the authority. The US government was able to deploy over $10 billion in the time span of months rather than years through a pre-existing OTA medical consortium that consisted of firms who traditionally choose not to do business with the government, or only under strict commercial terms and conditions.

Just a few years prior to the pandemic and most significantly, this medical consortium came together first through private sector efforts that tried to include the entirety of the commercial medical industrial base. Eventually, the Army was persuaded to establish an OTA purchasing framework around what was to be called the Medical CBRN (Chemical, Biological, Radiological, and Nuclear) Defense Consortium (MCDC), similar to other more traditional defense industry OTA consortia that it already managed. Then as the Army is prone to do when faced with non-traditional sources of innovation, only a small amount of government research was actually conducted through this medical OTA. Still, the MCDC consortium allowed for collaboration, teaming, and problem solving of potential government needs and critically, once the US was in an emergency situation, there was already a procurement vehicle in existence with the right type of industrial base to respond. There was no wasted time needed to implement a year-long solicitation process just to put in place a traditional contracting arrangement under the FAR that most of the pharmaceutical industry would not sign up to anyway. The government was able to flexibly contract with the private sector immediately and not only for multiple research paths but immediate follow-on production when ready.

The reality though is the creation of a medical OTA consortia was an accident, not a planned occurrence, and we were lucky that it was already in place prior to an emergency. As geopolitical threats continue to grow and innovation is planted squarely in the commercial market, it would be a wise decision to create multiple OTA consortia comprised of non-traditional sources of innovation in the 14 critical technology areas that OSD Research and Engineering has identified.

Supply Chain Issues

Supply Chain Shortfalls: The industrial base is still optimized for peacetime. Without demand signals such as in multiyear procurement contracts for munitions, it will be impossible to build up the supply chain. Over the years, more and more businesses have exited the market as production planning and legacy spares buying have been haphazard at best. The use of Defense Production Act authorities can be helpful in keeping some of these companies in the DIB, but that will continue to be a challenge with a lack of funds. Congress and DOD should focus first on "War Stopper"-type criteria for those companies that will be needed to ramp up production when needed in a crisis.

Supply Chain Illumination: Past attempts to obtain better supply chain illumination have either failed or have been only able to take a snapshot in time. DOD has for the most part outsourced the management of its industrial supply chain to the prime contractors where they have focused on their immediate programs and not on sector-wide vulnerabilities. Advanced data analytics and AI offer the potential to improve supply chain visibility for DOD. The biggest danger to first consider with any such effort is to determine where China is in the supply chain. Vulnerabilities from Chinese parts in the supply chain need to be identified and the risk assessed. If that vulnerability needs to be mitigated and sourcing moved, DOD will need to look to trusted sources from within the National Technology and Industrial Base (NTIB), our allies, or friendly countries. The most critical items will need to be produced in the US or within our most trusted allies in the NTIB.

Acquisition Workforce

Congress already had in place the right solution to improve the acquisition workforce in the flexible Defense Acquisition Workforce Development Fund (DAWDF) that was established in 2008. This fund was able to spend billions of dollars that were instrumental in hiring and training a new workforce in anticipation of retirements at the time. Unfortunately, the DAWDF was disestablished in 2018 due to Appropriations Committee concerns about its funding mechanism that used expiring unobligated balances. Its replacement, the Defense Acquisition Workforce Account, is now totally inadequate to meet the needs of a growing acquisition workforce problem.

The workforce may be in even worse shape that it was in 2008. A third of federal employees are near retirement and just 7 percent of employees are below age 30. The acquisition workforce is overworked, underpaid, and increasingly seeking better quality of life jobs with greater pay in the private sector. The result is that for some of the most complex systems in existence, we have inexperienced personnel who cannot afford to engage in creative thinking or problem solving. We are building up a cadre of an ever more risk-averse workforce at the most critical time that risk-taking is vitally needed. Congress should fix this and the first thing to do would be to re-establish the DAWDF funding authority and focus on training, direct hiring, and the creation of more OTA transactions specialists with the skills to effectively manage OTAs. HQEs should be

brought in to not only manage and implement MTAs and large programs but to train up personnel so they can eventually manage such programs.

Data Analytics

Data analytics and AI offer a great opportunity to improve the acquisition process. The Department should start with its contracting writing tools. The output of these tools is currently riddled with mistakes that require contractors to spend an inordinate amount of time reviewing government documents to ensure that they are correct. Data analytics can be helpful in supply chain and test and evaluation, but even something as mundane as finding areas of unobligated balances that can be moved to other priorities would be worth DOD's investment in data analytical solutions. It will likely be decades before DOD could ever consolidate all of its disparate data systems (if that was even possible). If software tools can now move within these existing data bases and extract useful data, this could obviate the need for consolidation and lead to better results such as in financial reporting.

International Sales and Cooperation

The US has many of the best export versions of military technology in the world, at least for now. It has given up markets in the past such as for drones, night vision, and space systems due to stringent export control processes under the International Trafficking in Arms Regulations (ITAR). The Foreign Military Sales (FMS) government-to-government sales process and Direct Commercial Sales (DCS) export processes suffer from similar linear, step-by-step, bureaucratic hurdles that would be familiar to the defense acquisition process. These processes take too long and purchasing countries increasingly have other alternatives to go to.

The selling of arms is a foreign policy decision but is also increasingly disconnected from the realities of the industrial base's ability to increase production. FMS customers after navigating the tricky path of approval then have to wait in line for years to actually see something delivered to their doorstep. The US arms sales process can't be based on empty promises for equipment that will likely never be delivered given production backlogs and timelines. Congress should look to create an inventory of exportable weapon systems that could be tapped in cases where systems are needed urgently, as in Ukraine, without having to tap into US stockpiles.

As defense technology progresses in foreign countries, it will be more important for real collaboration and cooperation to occur between the US and its closest allies rather than just a direct sale or transfer of US systems. Congress should look to (at least for the AUKUS, Five Eyes, or NTIB nations) a means of harmonizing requirements for systems transferred under FMS and DCS/ITAR and exempt these nations from ITAR controls to enable cooperative development and production of defense systems. Just as in acquisition, US security and technology control policies were built around an era of US defense technological dominance that has long passed and these policies and processes now serve as barriers to innovation through working and cooperating with our closest allies.

Accelerating Defense Acquisition to Compete in the Wars of the Future: A Pilot Pathway

Finally, I will outline for the Subcommittee's review a potential pathway to create an alternative defense acquisition system, one that is geared towards speed and results, particularly in such areas as AI, robotics, and autonomy that are now dominated by commercial technologies. Much of the authorities are already in place, but will likely require new legislation from Congress to overcome bureaucratic intransigence by rewarding entrepreneurial behavior. DIU's current experiment with its Replicator effort to build inexpensive, attritable platforms at scale is an obvious candidate to be a pathfinder in such a project. Still, DIU faces its own problem of entrenched behaviors and closed mindedness to new ideas and there are still long odds on it succeeding.[5]

To accelerate such an acquisition system, Congress should focus on the following 5 pillars:

Pillar I: Management: Put an Organization in Charge and Give It Authority

- The Pentagon acquisition bureaucracy has evolved to obfuscate both results and responsibility and is more successful in placing barriers in front of innovation. For specific objectives, such as AI, quantum, autonomy, or new launched effects, Congress should designate specific organizations to create new operational capabilities through the use of alternative acquisition approaches. Congress and the Secretary of Defense should clear away all bureaucratic barriers for these organizations to directly use flexible acquisition, budgeting, and personnel authorities.
- These organizations should report directly to the Secretary or Deputy Secretary and be given a blanket waiver from the Secretary from all internal approval processes.

Pillar II: Personnel: Speed the Time to Hire and Limit Tenure

- To recruit the talent to staff these organizations, Congress should provide to the head of these organizations expanded personnel authorities and the ability to directly hire Highly Qualified Experts (HQE). Congress may want to create a separate Title 10 HQE authority to make it more usable for DOD. It also may want to require the adoption by these designated acquisition organizations of the DARPA 5-year employment practice that restricts staff tenure. This would incentivize achieving success in a limited time and help to prevent the establishment of entrenched bureaucratic thinking. The Secretary of Defense should delegate all necessary personnel authorities to the head of the designated acquisition organization.

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[5] See William Greenwalt, "DOD's Replicator Program: Challenges and Opportunities," testimony before the House Armed Services Committee Subcommittee on Cyber, Innovative Technologies, and Information Systems, October 19, 2023, https://www.aei.org/research-products/testimony/dods-replicator-program-challenges-and-opportunities/.

Pillar III: Contracting: Enable Fast and Flexible Contracting with Non-Traditional Contractors in Specific Commercial Leading Industrial Sectors

- For these designated organizations, Congress should direct the establishment of nontraditional contractor Other Transactions (OTA) consortia in specific commercial sectors, such as those identified by the Undersecretary of Defense for Research and Engineering as critical technologies. Just as was demonstrated in Operation Warp Speed that quickly leveraged a medical sector DOD OTA consortium for over $10 billion in commercial contracts, creating specific sector-wide consortia made up of non-traditional contractors will allow for greater industrial collaboration and result in faster development times and contracting. To speed the transition of initial OTA research and prototyping efforts, the use of follow-on OTA production authority to allow for rapid, sole source contracting should be used.

Pillar IV: Acquisition and Requirements: Leverage RAA, Software, Middle Tier, and Services Acquisition Pathways

- For larger rapid fielding and serial rapid operational prototyping efforts, Congress should require the use by designated organizations of the MTA pathway that bypasses the lengthy requirements and acquisition process and mandates operational capability in the hands of the warfighter within 3-5 years. Rapid Acquisition Authority (RAA) and the Rapid Acquisition Pathway should be used for 1–2 year deployment objectives. MTA and RAA efforts with non-traditional and commercial contractors should be mandated to use OTA or commercial contracting approaches. Capability and Software as a Service Acquisition Models should be another major leveraged acquisition approach. All decision making to use the RAA, MTA, and Software Pathways should be streamlined and delegated to the head of the designated acquisition.

Pillar V: Budgeting: Support Year of Execution Budget Flexibility

- Budget inflexibility in year of execution and long lead times to allocate resources are at the root cause of our declining competitiveness and innovation failures (especially in the many versions of the Valley of Death).
- Acquisition capability efforts within the designated acquisition organization should be able to be started with rapid funding authorities in year of execution, dramatically reducing decision time.
- Congress could consider the equivalent of the FIRES Act proposed by Rep. Gallagher that would have re-purposed $11 billion in cancelled appropriations for INDOPACOM procurement needs. It should also create additional funds to support portfolio acquisition management and bolster past funds and authorities established to repurpose expiring funds through congressionally-created accounts such as the Defense Modernization Account, the Rapid Prototyping Fund (“Section 804” fund), RAA budget authority, and for personnel shortfalls in the designated acquisition organization, the now defunct Defense Acquisition Workforce Development Fund.

Thank you again for the opportunity to testify on this important topic. I welcome any questions you may have.