



May 3, 2018

The Honorable Mac Thornberry
House Armed Services Committee
2120 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Thornberry:

Thank you for providing us the opportunity to offer our suggestions and express our concerns regarding the Comprehensive Pentagon Bureaucracy Reform and Reduction Act and the Accelerating the Pace of Acquisitions Reform Act of 2018.¹ The Project On Government Oversight (POGO) has spent over 35 years investigating waste, mismanagement, and abuse in the Department of Defense's (DoD) weapons acquisition system. Throughout our history we have focused on how to make the procurement system less risky and more competitive, accountable, and transparent.

While there has been a constant push to reform acquisition policies and regulations, so many of the reforms have failed due to shortfalls in the capacity of the Department, including restrictions that prohibit the Department from accessing necessary information, to properly oversee its industry partners.

But improving procurement doesn't necessarily require new rules, just better oversight, enforcement, and use of the rules that exist.

We applaud your Committee's work to reform this deeply troubled system. Some of the provisions of these bills, if implemented appropriately, could result in efficiencies and savings for the Department and taxpayers. We are concerned that other proposals, however, would reduce oversight and increase costs to taxpayers.

Elimination of Test Resource Management Center Will Reduce Combat Effectiveness (Sec. 3, Pentagon Bureaucracy)

The proposal to eliminate the Test Resource Management Center will undermine the ability of Congress and Pentagon officials to assess the combat suitability of new weapon systems. This office is responsible for overseeing the management of the nation's major testing ranges, providing a valuable oversight function for all weapons testing activities to ensure they are funded and staffed appropriately to meet the Department's test and evaluation requirements. These facilities are spread all over the country and include Army proving grounds, Air Force test ranges, and Navy laboratories. This agency also oversees the development and purchasing of

¹ [Comprehensive Pentagon Bureaucracy Reform and Reduction Act Discussion Draft](#), April 16, 2018; [Accelerating the Pace of Acquisition Reform Act of 2018 Discussion Draft](#), April 16, 2018.

critical test range equipment. To properly test weapon systems, the ranges must be outfitted with sensors and signal generators that mimic the environment in which the weapons are expected to operate. For example, to test highly sophisticated aircraft like the F-35, the aircraft must fly through a test range equipped with signal emitters capable of replicating the kind of radar, missile guidance, and other threat equipment the F-35 may encounter in a combat zone. These signals will stimulate the electronics on the F-35 so the test team can determine if the onboard systems works properly.²

Without this office, the management of these facilities will be left entirely to the Services. Historically, testing facilities have been a low budget priority for the Services, which have a demonstrated preference for buying new equipment. Without an organization independent of the Services dedicated to monitoring these activities, there is a danger the necessary resources will not be made available. These facilities are a key part of the weapons testing process. The data gathered at these facilities are used to evaluate whether or not the weapons being considered for the military actually meet the needs of the men and women who will take them into combat. Congress also needs this information to make properly informed decisions. If anything, with the Pentagon pursuing increasingly complex weapon systems, Congress should provide the Test Resource Management Center the resources necessary for the nation's test ranges to ensure the equipment being purchased can stack up against sophisticated adversaries and threats.

Eliminating Office of Economic Adjustment Constrains Ability of Department to Increase Infrastructure Efficiencies (Sec. 3, Pentagon Bureaucracy)

One of the largest missed opportunities for savings at the Department of Defense is Congress's refusal to authorize another Base Realignment and Closure (BRAC) round to close unnecessary military infrastructure. The Department of Defense concluded that the four previous BRAC rounds continue to create over \$13 billion in savings each year and another BRAC round would save an additional \$2 billion per year.³ The Office of Economic Adjustment manages the process for closing bases and turning them over to communities. A 2005 study found that due to that office's work the 70 communities affected by a base closure were able to replace nearly all civilian defense jobs.⁴ If the Office of Economic Adjustment is eliminated as the legislation proposes, the flexibility of future Congresses and the Department of Defense to adjust to changing demands will be constrained.

Increasing Efficiency and Transparency of the Defense Logistics Agency Will Benefit Taxpayers (Sec. 9, Pentagon Bureaucracy)

Numerous Government Accountability Office and Department of Defense Inspector General reports have highlighted wasteful spending and mismanagement at the Defense Logistics Agency.⁵ POGO is glad to see that this legislation advances the important goal of improving

² Dan Grazier, "F-35: Still No Finish Line in Sight," Straus Military Reform Project, March 19, 2018. <http://www.pogo.org/straus/issues/weapons/2018/f-35-still-no-finish-line-in-sight.html>

³ Department of Defense, *Department of Defense Infrastructure Capacity*, March 2016, p. 18. <https://defensecommunities.org/wp-content/uploads/2015/01/2016-4-Interim-Capacity-Report-for-Printing.pdf> (Downloaded May 2, 2018)

⁴ Office of Economic Adjustment, *Responding to Change: Communities and BRAC*, December 2005. <http://www.oea.gov/resource/responding-change-communities-and-brac> (Downloaded May 2, 2018)

⁵ Department of Defense Inspector General, *Improvements Needed in the Defense Logistics Agency's Evaluation of Fair and Reasonable Prices for C-130 Aircraft Spare Parts*, November 16, 2015.

efficiency and effectiveness for supplying inventory items to defense customers. The provisions establishing targets to increase efficiency and costs are critical, and POGO recommends going even further in establishing requirements to meet these goals by:

- **Developing and implementing a comprehensive inventory system.** POGO recommends that the requirements include the ability of customers to view pricing information. Also, along with the delivery status of items and materials that are in-transit required in your proposed language, items that are “on-order” should be included. Finally, the language should clearly allow, or even require, that the inventory system be part of more comprehensive inventory systems either currently in place or under development. The Defense Logistics Agency should *not* be encouraged to develop a separate system, which would result in a greater proliferation of siloed systems.
- **Developing the capability for predictive analytics.** Including predicative analytics as an analysis tool is a good idea. However, POGO recommends broadening the language to include additional software and analytic tools, not just predictive analytics. For example, greater supply transparency, contract monitoring, and other approaches could also help contract officers and other staff better understand current and future demands for inventory.
- **Ensuring lower prices for all supplied items.** Lowering the price of Defense Logistics Agency supplied items is critical. However, so is lowering prices of all supplied items. The Department of Defense Inspector General has pointed out that customers often purchase items from contractor sources at higher prices than what the Defense Logistics Agency offers. Creating a more transparent and efficient system, and requiring that the Services purchase lower-priced items when available, could help alleviate this problem.

Reducing Oversight Agencies Increases Risks of Waste and Abuse of Taxpayer Funds (Secs. 8, 11, and 12, Pentagon Bureaucracy)

This Committee is well aware of the need for increased efficiencies and reduced overlap. POGO is concerned that some of the provisions in the legislation will remove important oversight of contract spending, undermine auditor independence, and reduce the effectiveness of information technology acquisition. As former Associate Director for National Security and International Affairs at the Office of Management and Budget Gordon Adams has pointed out, these efforts may only result in “recreating the management inefficiencies that led to centralization in the first place.”⁶ Dividing up some of these functions among the Services, which is unlikely to result in significant savings, may instead result in much larger costs and problems for the military down the road.

<https://media.defense.gov/2015/Nov/16/2001714193/-1/-1/1/DODIG-2016-023.pdf>; Department of Defense Inspector General, *Defense Logistics Agency Did Not Appropriately Determine Fair and Reasonable Prices for F108 Engine Sole-Source Commercial Parts*, February 16, 2016.

<https://media.defense.gov/2016/Sep/08/2001774201/-1/-1/1/DODIG-2016-047.pdf>; Government Accountability Office, *Plan to Improve Management of Defective Aviation Parts Should Be Enhanced*, April 9, 2017.

<https://www.gao.gov/products/GAO-17-588R>; Government Accountability Office, *Further Analysis and Enhanced Metrics Could Improve Service Supply and Depot Operations*, June 9, 2016.

<https://www.gao.gov/assets/680/677769.pdf> (All downloaded May 2, 2018)

⁶ Gordon Adams, “Thornberry Is Getting Rolled by the Services,” *Defense One*, April 25, 2018.

<https://www.defenseone.com/ideas/2018/04/thornberry-getting-rolled-services/147721/?oref=d-river> (Downloaded May 2, 2018)

Changing “Commercial” Definitions Will Lead to Overpricing and Abuse (Sec. 201, Accelerating Acquisition)

POGO opposes the definition of commercial products proposed in this section because it adds products that are based on government drawings or specifications. That change will open the floodgates, enabling just about everything the government buys to be designated “commercial”—thus bypassing the requirement to provide Truthful Cost or Pricing Data (10 U.S.C. § 2306a and 41 U.S.C. Chapter 35). Contractors’ desire to bypass this important law, as well as the related Cost Accounting Standards, seems to be the key driver of this revised definition. Not requiring contractors to submit certified cost or pricing data, especially in sole source procurements, simply ensures overpricing on many products that are Defense Department-unique—costs that are ultimately borne by taxpayers. In addition, by requiring contracting officers to conduct market research into “customer drawings or specifications,” the proposal adds bureaucracy to a process that was supposed to cut red tape. We also oppose the proposed definition of commercial services because it is tied to the new definition of so-called commercial products. These definitional changes are nothing more than an industry attempt to shoehorn more products and services into a definition that results in overpriced contracts.

Reporting on Other Transaction Authority Needs to Go Deeper (Sec. 204, Accelerating Acquisition)

POGO continues to be concerned with the use of Other Transaction Authority (OTA), which allows contractors to avoid protections that ensure fair and reasonable prices and transparency. The proposed reporting requirements in the legislation for “projects performed through transactions other than contracts, cooperative agreements, and grants” will only yield information about OTAs that is already publicly available. If Congress is serious about protecting taxpayer interests, it should provide audit access rights to review awardees’ books and records relating to OTAs in order to ensure that agencies and taxpayers are paying fair and reasonable costs or prices.

Increasing Micro-Purchase Thresholds Will Increase Risks of Purchase Card Abuse (Sec. 302, Accelerating Acquisition)

POGO opposes the increase of the micro-purchase threshold to \$25,000 for commercial e-commerce procurements. Such purchases often will be made with government purchase cards, which lack any requirement to go through a more rigorous acquisition process and instead relies upon the user of the purchase card to determine if the price is reasonable. These purchase cards have been prone to fraud and overcharges. The Department of Defense Inspector General found Department of Defense cardholders used over \$1 million of taxpayer funds for personal purchases at casinos and strip clubs.⁷ The current \$10,000 micro-purchase cap should remain in effect, or be lowered.

⁷ Department of Defense Inspector General, *DoD Cardholders Used Their Government Travel Cards for Personal Use at Casinos and Adult Entertainment Establishments*, May 19, 2015. <https://media.defense.gov/2015/May/19/2001713509/-1/-1/1/DODIG-2015-125.pdf>; Department of Defense Inspector General, *DoD Officials Did Not Take Appropriate Action When Notified of Potential Travel Card Misuse*

We appreciate your consideration and attention to reforming the Department of Defense's acquisition system and would welcome an opportunity to meet with you or your staff to discuss these issues. Please contact Mandy Smithberger, POGO's Director of the Center for Defense Information, or Scott Amey, POGO's General Counsel, at 202-347-1122 for more information.

Sincerely,

A handwritten signature in blue ink that reads "Danielle Brian". The signature is fluid and cursive, with the first name being more prominent.

Danielle Brian
Executive Director

cc: Ranking Member Adam Smith, Chairman John McCain, and Ranking Member Jack Reed