

Paul Solomon
3307 Meadow Oak Drive
Westlake Village, CA 91361
Paul.solomon@pb-ev.com

February 7, 2025

The Honorable Pete Hegseth
Secretary of Defense
1010 Defense Pentagon
Washington, DC 20301-1010

Subj: NDAA for FY 2025, Sec. 804, Middle Tier of Acquisition, Hog-Ties the Program Manager

Dear Hon. Secretary of Defense Hegseth:

Despite its crafty word-crafting, the NDAA for FY 2025, Sec. 804, Middle Tier of Acquisition for Rapid Prototyping and Rapid Fielding, is a barrier to entry for non-traditional contractors. Per the provision, the rapid prototyping pathway shall provide for the use of innovative technologies to rapidly develop fieldable prototypes to demonstrate new capabilities and meet emerging military needs.

However, one element of Sec. 804 is misleading, counter-productive, and a barrier to entry:

“(4) STREAMLINED PROCEDURES.—The process described in paragraph (1) may provide for any of the following streamlined procedures:

“(E) A program manager...may seek an expedited waiver from any regulatory requirement, or in the case of a statutory requirement, a waiver from Congress, that the program manager determines adds cost, schedule, or performance delays with little or no value to the management of such program or project.”

Although a program manager will have the authority to seek a waiver of a statutory requirement from Congress, getting Congressional approval is very difficult and takes a long time.

There is a statutory requirement behind the DFARS Earned Value Management System (EVMS) clause. The clause requires an organization to comply with its implementation of the NDIA EIA-748 EVMS standard. A program manager may determine that the EVM process, in compliance with EIA-748, adds cost or will cause schedule delays, with little or no management value. However, that program manager will be hog-tied (SOW-tied?) by the need to get Congressional approval.



My white paper, Common Sense Project Management: “When you come to a fork in the road...,” provides evidence that “EVMS (using EIA-748 guidelines) provides “no management value.” Gary Christle’s 1999 vision was:

- The quality of a management system is determined not by the absence of defects, but by the presence of management value.
- Integrate cost, schedule, technical performance, and risk management.

The Sec. 804 authors craftily used a variant of that phrase, “little or no value to the management of such program.” The provision purports to facilitate a program manager’s ability to achieve program objectives without being required to waste time and effort on complying with regulations such as the EVMS clause. However, the “streamlined” procedure will impede the program manager’s ability to obtain a waiver. It will buttress the EVM barrier and enable traditional contractors to maintain the status quo and their EVM franchise.

Don’t bother with waivers. Go the whole hog. Slaughter the statute and the regulation.

Yours truly,



Paul Solomon

CC:

Hon. Glen Grothman, HOAC Hon. Adam Smith, HASC
Hon. Ken Calvert, HAC Hon. Mike Rogers, HASC
Hon. Robert J. Wittman, HASC Hon. Donald Norcross, HASC
Hon. Ro Khana, HASC DOGE
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Anthony Capaccio, Bloomberg News