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The Honorable William LaPlante USD(A&S)
1010 Defense Pentagon
Washington, DC 20301-1010

Subj: Place DFARS EVMS Case on Hold and Go the Whole Hog

Dear USD LaPlante:

DFARS Case No. 2024-D017, EVMS, is due June 5. The case synopsis includes “exempts contracts and subcontracts primarily for the procurement of software from the EVM requirement.” Please direct the DARC Director to place the case on hold.

My previous letters and email to you argued that DFARS EVMS clause be eliminated altogether. The scope of pending Case No. 2024-D017 is too narrow. Consequently, any effort spent on publishing the pending rule and adjudicating comments from stakeholders would be a waste of time. Implementing that rule would be insufficient to meet Congressional oversight needs and the commitments made at your nomination hearing. Exempting only software contracts would be like putting lipstick on a “SOW.”

The following table includes excerpts from previous letters to you and Chairs Adam Smith and Robert Wittman that provide insight into Congressional intent, GAO recommendations, and your commitments. The table also includes Ike Skelton’s provision in the NDAA for FY 2011 that shows his intent.

Letters and Email Expressing Congressional Intent, GAO Reports, and USD Commitments		
Recipient	Date	Excerpts
Smith	3/8/21	Smith comments at Brooking Institution: “Part of it is also having a freaking <i>product that works</i> at the end of the day.”
Smith	3/13/21	You observed that “We reward people for process, not for results.” Your example was “We’re going to check all these boxes...I must do this, this, this, and this before I do that.” My comment: The larger problem is that we also reward contractors for <i>process</i> , not for results, on cost plus award fee contracts that require the use of EVM.
Wittman	12/7/23	comments in <i>Defense News</i> , 12/6 • “In today’s world ... software needs to be at the forefront , then hardware needs to follow that.”

		<ul style="list-style-type: none"> • “...the things that we design the hardware around are only enabled if you have the software. We kind of have gotten things backwards.”
LaPlante	5/5/24	<p>Wittman comments: “Look at how contracts are put together. You focus on performance, you focus on outcomes, you focus making sure that we are staying on time and on schedule.”</p> <p>GAO-23-105611, 4/5/23</p> <p>DoD’s ability to respond to evolving threats and compete with strategic competitors, such as Russia and China, is increasingly determined by its ability to rapidly develop and <i>deploy software-intensive systems, such as weapons...systems.</i></p> <p>My Recommendation: Incorporate oversight of Agile development of software into acquisition policy and guidance for all programs using Agile. This should include use of metrics, including <i>outcome-based metrics</i>, and continually <i>assessing the value of capability delivered to support iterative software development.</i></p>
LaPlante	5/10/24	<p>The use of EIA-748 will obstruct the achievement of a digital engineering objective in DODI 5000.87, DODI 5000.88, and the DOD Digital Engineering Strategy.</p>
LaPlante	5/29/24	<p>GAO-24-106546 NAVY</p> <p>“While the Navy tracks design progress, its process to calculate design stability hinges largely on the <i>quantity—rather than the quality—</i>of completed design documents. The focus on quantity obscures functional design progress and how much design work remains.”</p> <p>GAO recommended: “...ensure that the frigate program’s functional design review practices and metrics be restructured to measure progress that reflects the <i>quality rather than the quantity</i> of design deliverables received from the shipbuilder.”</p>
LaPlante	5/30/24	<p>Email:</p> <p>Per GAO-24-105503 Navy Shipbuilding, how programs measured their achievement of <i>design maturity</i> varied but typically reflected <i>percentages of design drawings</i> or design-specific contract deliverables expected to be submitted at key milestones before construction. Navy shipbuilders noted that using this type of metric (<i>percent complete</i>) does not necessarily provide a clear understanding of overall design maturity.</p>

		For example, the metrics may overstate design completeness by giving ...credit for ... without fully accounting for the quality or completeness of associated design...and, consequently, mask design uncertainties and remaining design work.
Skelton	2010	NDAA for FY 2011: SEC. 864. REVIEW OF DEFENSE ACQUISITION GUIDANCE. (4) the extent to which EVM should be required on acquisitions not involving the acquisition of weapon systems and whether measures of quality and technical performance should be included in any EVM system.

A previously cited letter to Ike Skelton in 2010, states that, per EIA-748, earned value is a “measurement of only the quantity of work” and that “quality and technical content of work performed are controlled by other means.” Also, the DoD Report to Congress, DoD EVM: Performance, Oversight, and Governance, stated that contractors “keep EVM metrics favorable and problems hidden.” The deficiency in DFARS and EIA-748 enables contractors to report metrics that are more favorable than actual conditions and to defer reporting of real problems.

So, please go the whole hog. Direct that the case be put on hold. Work with Congress to get statutory authority. GAO, the F-35 program, and failing shipbuilding programs have provided justification. Include these actions in the NDIS Implementation Plan.

To satisfy Adam Smith, build a freaking *product that works* at the end of the day.” You can’t make a silk purse out of a SOW’s ear.



Paul J. Solomon

CC:

Hon. Robert J. Wittman, HASC Hon. Heidi Shyu, (USD(R&E))
Hon. Andrew Hunter, AF Asst. Sec. for AT&L
Hon. Adam Smith, HASC Hon. Carlos Del Toro, Secretary of the Navy
Nickolas Guertin (ASN RD&A) Honorable David L. Norquist, NDIA
Hon. Susan Collins, Senate Defense Appropriations Subcommittee
Anthony Capaccio, Bloomberg News
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