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February 8, 2021

The Honorable Bernie Sanders
Chairman, Senate Budget Committee
624 Dirksen Senate Office Building
Washington, DC 20510

Subject: Reduce the Military Budget and Related Fraud, Waste, and Abuse

Dear Chairman Sanders:

I would like to help you reach your objectives as Chairman of the Senate Budget Committee with specific recommendations for legislation and oversight. The recommendations directly address your goals to reduce the size of the military budget and the amount of waste in that budget.

I also address reforms to OMB policy and FAR that will improve Program/Project Management (P/PM) and the use of “Earned Value Management (EVM)” by all federal agencies, not just DoD. My recommendations will hold contractors accountable for results, increase transparency, and make it difficult for contractors to deceive the government regarding cost, schedule, and technical performance of major acquisitions. I also target undeserved, subjectively-determined award fees to contractors that are over cost and behind schedule.

But DoD acquisition reforms should get priority because defense contractors are the biggest offenders. You are correct, in your letter to Gen. Mattis of March 14, 2018, that “DoD need to fundamentally reform its procurement and business operations to crack down on the widespread waste and abuse of private defense contractors.” You covered the subjects of defense contractor fraud and cost overruns in the acquisition budget.

Previous Acquisition Reforms Recommendations

I have been proposing specific acquisition reforms within the defense industry since 1992 (NDIA) and to legislators and federal officials since 2009. My recommendations to HASC and SASC Chairmen Ike Skelton, John McCain, and Adam Smith were incorporated into NDAA legislation. My recommendations to DoD were incorporated into DoD policy, instructions, and guides.

However, those accomplishments resulted in reports and (voluntary) guides but not in any statutory or regulatory changes that had teeth.

I now hope to collaborate with you to implement reforms via OMB. In fact, I also request that you consider enlisting Sen. Warren to collaborate via her SASC role. No one has taken the gauntlet since Sen. McCain passed away.

The table, following this paragraph, includes excerpts from my letters to and from legislative and executive branch policy makers. I have not spelled out specific plans and actions for you. Detailed plans regarding OMB are in the letters to Mr. Mulvaney, Mr. Vought, and Chairman Smith (11/21/20). The other letters are more narrowly applicable to DoD and SASC oversight. The letter to Pres.-Elect Trump provides an explanation of the issues in layman’s terms. You can download the letters from my website, www.pb-ev.com, at the Acquisition Reform tab.

Letters on Acquisition Reform Regarding Program/Project Management and Earned Value Management			
To (from)	Subj.	Date	Takeaways
Sanders		2/8/21	
Harris	DoD Acquisition Reform, Final Request to You as my Senator	1/17/21	<ul style="list-style-type: none"> • Abandon EIA-748, the Earned Value Management System (EVMS) standard owned by the NDIA • EIA-748 perpetuates the hoax that, if DCMA finds compliance, then Program Managers can trust the data. • Contractor effort and DoD resources diverted from managing the program in order to “manage the numbers,” avoid Nunn-McCurdy violations, and maximize award fees
Smith	NDAAC Conference Committee Support for H. R. Sec. 1745, Requirements Relating to Program and Project Management	11/21/20	Your markup will result in lower costs of major capital acquisitions and earlier detection and reporting of cost overruns and schedule delays.
Vought (OMB)	Recommendations to Improve Program/Project Management and Achieve the President’s Management Agenda	10/27/20	<p>(1) Adopt the Voluntary Consensus Standards for Program/Project Management (P/PM) from the Project Management Institute, including ANSI/PMI 19-006-2019 in concert with PMBOK® Guide</p> <p>(2) Replace EIA-748 in the OMB Capital Programming Guide with ANSI/PMI 19-006-2019 in concert with PMBOK® Guide.</p> <p>(3) Revise the 5-year strategic plan for implementing the Program Management Improvement and Accountability Act of 2015 (PMIAA) to include these recommendations.</p>
Harris	Project Management of High Risk DoD Acquisitions	9/22/19	Investigate systemic and specific issues regarding award fees (profit) on capital acquisition contracts to obtain insight of award fee policies and practices that benefit contractors but harm taxpayers.

			<p>A DCMA audit that finds a contractor compliant with EIA-748 provides false assurance that cost performance information is accurate and truthful.</p> <p>Loopholes and ambiguities in EIA-748 enable contractors to understate the true cost overruns and the Estimate (of costs) at Completion (EAC).</p> <p>FAR and agency audits fail to deter wasteful, fraudulent or abusive actions by contractors.</p>
Mulvaney	Project Management of High Risk DoD Acquisitions	1/17/18	<p>Comptroller General Gene Dodaro, in discussing the GAO's 2017 high risk list, stated that the PMIAA, if implemented effectively, will help foster progress on high-risk issues government-wide. However, DoD has a waiver. Propose legislation to require that PMIAA be applicable to DoD. Remove the waiver.</p>
McCain	Fraud on the F-35 Program and Need for Acquisition Reform	1/4/18	<p>Recent NDAAs and earlier WSARA reforms failed to address significant deficiencies in the acquisition regulations which enable contractors to report monthly EVM cost and schedule performance, including the most likely Estimate at Completion (EAC), that are inaccurate and misleading.</p> <p>I seek your continuing support regarding two issues:</p> <ol style="list-style-type: none"> 1. Fraudulent claims on the F-35 program and retribution to the taxpayer 2. Acquisition reform regarding EVM
Trump	DoD Acquisition Reform - Under Budget and Ahead of Schedule	11/13/16	<p>Contractors exploit permissive EVMS guidelines and submit monthly contract performance reports that overstate cost and schedule performance and understate the estimated completion costs and schedule. The CPRs often fail to provide an early warning of pending funding shortfalls and delays to providing working weapons to the warfighters.</p> <p>The biggest loophole in the EVMS guidelines allows contractors to report progress in terms of % complete that is based on flawed, misleading metrics. In construction terms, contractors may report cost and schedule performance based on the number of actual vs. planned architectural drawings, or floors built, even if the rising structure will not meet building codes, seismic risks etc. Contractors are not required by the EVMS guidelines to assess and report progress</p>

			that is based on achieved vs. planned technical performance or quality (Quality Gap).
McCain	Cost Controls on the F-35 and Need for Acquisition Reform of EVM	1/21/15	<p>Both Industry and DoD have declined to improve the validity and management value of EVM with regard to linking EVM to technical performance.</p> <ol style="list-style-type: none"> 1. Propose legislation to assessment the validity and effectiveness of EVM, including the effectiveness and deficiencies of the relevant DFARS clauses and DoDI 5000.02 2. Oversee the effectiveness and validity of EVM on the F-35 program. 3. Request GAO's assistance with regard to the above items.
McCain (from)	Letter if Appreciation	3/5/15	<p>Thank you for your letter concerning the cost overruns and mismanagement of the F-35 program. Our focus of effort for this Congress will be to provide accountability and to arrest the growth in cost and schedule.</p> <p>I appreciate your continuing efforts in working to improve our acquisitions process.</p>
McCain	Cost Controls on the F-35 and Need for Acquisition Reform of EVM	10/25/11	<p>The acquisition regulations and process enable contractors to submit invalid, misleading information to the Government on all capital asset acquisitions, not just weapon systems. We need to improve transparency and accountability when contractors use a contractually-required EVMS on cost-reimbursement contracts.</p> <p>The EVMS guidelines are similar to Generally Accepted Accounting Principles (GAAP). However, GAAP protects investors but EVMS often fails to protect taxpayers. The standard has ambiguities and loopholes that should be removed.</p> <p>The two most important deficiencies are:</p> <ol style="list-style-type: none"> 1. Contractors are able to overstate progress and understate final costs (called EAC) by basing earned value on the quantity of work performed, not on technical performance or quality. 2. Contractors routinely use "Management Reserve" (MR) as a slush fund for additional budget to compensate for poor planning, to reduce reported cost overruns, and to provide additional budget for tests and rework to designs that fail to meet technical performance or quality objectives.
Skelton	Panel on Defense Acquisition Reform	3/28/10	<ul style="list-style-type: none"> • Neither the DFARS EVMS clause 252.234-7002 nor its cited EVMS guidelines in EIA-748 require

			<p>that contractors report progress toward achieving quality or technical goals that are specific and measurable.</p> <ul style="list-style-type: none"> • In fact, ANSI/EIA-748 states that 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” (Section 3.8). Guideline 2.2.b describes the use of technical performance goals to measure progress as an option, not a requirement. • DoD’s Report to Congress, DoD Earned Value Management: 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. • Today, neither the acquisition managers nor the PARCA office can be assured that a contractor’s performance metrics are valid or accurate. To my knowledge, neither the GAO nor any other agency ever validated that EVMS truly integrates cost, schedule and quality/technical performance or that it provides accurate status and EAC. There is a need to transform EVMS into a more valuable acquisition management tool that will provide early warning of performance problems on a consistent basis.
Zients	Section 302 of the Weapon System Acquisition Reform Act	12/13/09	<p>Please consider acquisition reform to improve the effectiveness of EVM for the acquisition of capital assets.</p> <p>DoD Report to Congress excerpts: Contractors may circumvent proper EVM practices to keep EVM metrics favorable and problems hidden</p> <p>Engineering community should establish technical performance measures that enable objective confirmation that tasks are complete</p>

I would be glad to provide more clarification of the issues, evidence, and detailed plans that will work to you or your staff. You can learn more about capital acquisitions and EVM

from your colleagues, Sen. Ernst (sponsor of the PMIAA) and Sen. Collins. Sen. Collins stated in a conference report:

The GAO observed that contractor EVM reporting lacks consistency and leads to inaccurate data and faulty application of the EVM metric. "In other words, garbage in, garbage out." Collins stated that "With improved EVM data quality, both the government and the contractor will be able to improve program oversight, leading to better acquisition outcomes." She concluded that "I believe this amendment (regarding EVM), Senator McCaskill, and I offer would help to strengthen the Department's acquisition planning, increase and improve program oversight, and help to prevent contracting waste, fraud, and mismanagement."

Please let me know how I can help you to succeed.

Yours truly,

A handwritten signature in blue ink that reads "Paul J. Solomon" with a horizontal line extending to the right.

Paul J. Solomon

CC:

Sen. Joni Ernst, SASC

Chairman Adam Smith, HASC

Mr. Andrew Hunter, Biden-Harris Transition Team