THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION
AND SUSTAINMENT

FEB -3 2019

The Honorable Nita M. Lowey
Chairwoman
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

Dear Madam Chairwoman:

Sections 813 and 875 of the National Defense Authorization Act (NDAA) for FY 2016 (Public Law (P.L.) 114-92) each require the Secretary of Defense to submit to the congressional defense committees any comments or recommendations on the findings contained in the separate reports created pursuant to those sections by a joint Government-industry advisory panel and an independent entity, respectively, regarding the statutes, regulations, policies, and practices related to the Department's acquisition of intellectual property (IP). Given the close nexus between the subject matters of these independent reports, the Department is consolidating its comments in this response letter, as stated in our letter to the committees on May 24, 2017.

Overview of the Section 813 and 875 Reviews

The Section 813 Government-Industry Advisory Panel

Section 813(b) of the NDAA for FY 2016, as amended by section 809 of the NDAA for FY 2017 (P.L. 114-328), directed the Secretary of Defense to establish a Government-Industry Advisory Panel (813 Panel) to review, and provide recommendations for any changes to, sections 2320 and 2321 of title 10, U.S.C., and the implementing regulations regarding rights in technical data and validation of proprietary data restrictions. The 813 Panel was charged to ensure the governing statutes and regulations are best structured to serve the interests of the taxpayers and the national defense, including by giving appropriate consideration to—

- Ensuring that the Department does not pay more than once for the same work;
- Ensuring that Department of Defense (DoD) contractors are appropriately rewarded for their innovation and invention;
- Providing for cost-effective reprocurement, sustainment, modification, and upgrades to DoD systems;
- Encouraging the private sector to invest in new products, technologies, and processes relevant to DoD missions;
- Ensuring that the Department has appropriate access to innovative products, technologies, and processes developed by the private sector for commercial use; and
- Ensuring that the Department and DoD contractors have the technical data rights necessary to support the Modular Open System Approach (MOSA) requirement set forth in title 10, U.S.C., section 2446a, taking into consideration the distinct characteristics of

major system platforms, major system interfaces, and major system components developed exclusively with Federal funds, exclusively at private expense, and with a combination of Federal funds and private expense.

The panel began its work in June 2016, with a balanced membership of panelists from industry and the Government. In accordance with the Federal Advisory Committee Act (FACA), the panel's meetings, information collected and generated, and other deliberative activities, were open to the public and are publicly available at https://www.facadatabase.gov/FACA/apex/FACAPublicCommittee?id=a10t0000001gzjuAAA. The panel's final report, "Government-Industry Advisory Panel on Technical Data Rights," dated November 13, 2018, was submitted to my office, as well as to the congressional defense committees, in mid-November 2018.

The panel's final report is comprised primarily of a collection of thirty white papers, each focused on a particular topic that the panel characterized as a "tension point" between the Department and industry. The report's Executive Summary categorizes the white papers into eight broad areas: business model, acquisition planning and requirements, source selection and post source selection IP licensing, balancing the interests of the parties, implementation, compliance/administrative, data acquisition, and MOSA. In most cases, the individual papers conclude with the panel's consensus recommendations regarding policy, regulatory, or practical action to address the issues raised in each paper; however, eight of the papers include statutory recommendations for specific revisions to title 10, U.S.C., section 2320 and 2321 (Appendix A of the report consolidates all of the individual consensus/majority recommendations in redlined versions of those sections), and three papers recommend legislative action not directed to those sections (e.g., provisions recommended for inclusion in a forthcoming NDAA). For three of the tension points with statutory recommendations (papers 14, 19, and 24), the panel did not reach consensus and thus the report includes two papers for each topic – one representing the panel's majority position, and the other representing the minority position.

The Section 875 Independent Review of Government Access to IP of Private Sector Firms

Section 875 of the NDAA for FY 2016 required the Secretary of Defense to contract with an "independent entity" to review DoD regulations, practices, and sustainment requirements related to Government access to and use of IP rights of private sector firms, as well as DoD practices related to the procurement, management, and use of IP rights to facilitate competition in sustainment of weapon systems throughout their life-cycle. The independent entity was also required to consult with the National Defense Technology and Industrial Base Council (*see* title 10, U.S.C., section 2502) and each Center of Industrial and Technical Excellence (*see* title 10, U.S.C., section 2474). On March 2, 2016, the Department awarded a contract to the Institute for Defense Analyses (IDA), a nonprofit corporation that operates three federally funded research and development centers, to conduct this independent study. As a result of the review, IDA reached eight conclusions, identified four "broader challenges," and made six recommendations, in its final report entitled "Department of Defense Access to Intellectual Property for Weapon Systems Sustainment," dated May 2017, which we forwarded to the congressional committees on May 24, 2017, and although this independent review was not subject to FACA, the report is publicly available at

https://www.ida.org/idamedia/Corporate/Files/Publications/IDA_Documents/SFRD/2017/P-8266.pdf. IDA's recommendations may all be characterized as directed to policy, regulatory, or practical matters, and do not include any specific statutory or legislative recommendations.

Department of Defense Comments and Recommendations

The Department agrees with and supports the general findings and recommendations in both the section 813 and section 875 reports. We recognize that a foundational challenge in this area is that the Department has insufficient organizational capacity to provide expertise in the acquisition of IP to support program managers throughout their programs' lifecycles (as well as other staff involved in weapon systems acquisition). This has hindered our ability to facilitate reprocurement, sustainment, modification, and upgrades to DoD systems throughout their lifecycle. We also recognize that fostering innovation for both national security and the economy overall must be a central tenet of our IP policy and procedures.

To address these challenges, I have formed an Intellectual Property Working Group (IPWG) at the Department level, including cross-functional representation (e.g., acquisition, sustainment, research & development, engineering, contracting, legal) from the Office of the Secretary of Defense and the Military Departments. In addition to further assessing and implementing the statutory, regulatory, policy, and practical recommendations from the section 813 and 875 reports, the IPWG will also coordinate Department-wide efforts to implement the requirements of title 10, U.S.C., section 2322, (resulting from section 802 of the NDAA for FY 2018), which align with and support the overall recommendations of those reports.

Statutory and Legislative Recommendations

The Department generally supports the statutory and legislative recommendations by the section 813 Panel to amend title 10, U.S.C., section 2320 and 2321, and for additional legislation not directed to those sections. Regarding the three tension points for which the section 813 Panel did not reach consensus, the Department supports the panel's majority position, and believes that the concerns identified in the minority position can be effectively addressed through appropriate implementation of the policy, regulatory, and practical recommendations.

We also note and support the two statutory recommendations from the section 813 Panel report that have already been addressed in recent NDAAs: The recommendation (paper # 22) to form a cadre of IP experts was addressed in section 802 of the NDAA for FY 2018 (P.L. 115-91), now codified at title 10, U.S.C., section 2322; and the recommendation (paper # 19) to clarify the mandatory presumption of development at private expense for commercial items in the procedures for challenging and validating asserted restrictions on technical data was addressed in section 865 of the John S. McCain NDAA for FY 2019 (P. L. 115-232) (amending title 10, U.S.C., section 2321(f)).

Regulatory, Policy, and Practical Recommendations

During the short term, while the statutory recommendations are pending in the legislative process, the IPWG will focus its efforts on implementation of the section 813 and 875 regulatory, policy, and practical recommendations. Specific attention will focus on requirements of existing statutes, including title 10, U.S.C., section 2322, and recent changes to title 10, U.S.C., section 2320 and 2321 that have not yet been fully implemented, as well as addressing the concerns raised by the 813 Panel's minority positions for three tension points where the panel failed to reach consensus.

The Department will address the contracting recommendations primarily through the Defense Federal Acquisition Regulation Supplement (DFARS) rulemaking process. As recommended by the 813 Panel, and as an exception to the most common rulemaking procedures, industry will be invited to participate earlier than usual in the rulemaking via public meetings, which will provide an opportunity for industry to participate in the actual drafting of both the proposed and final rules.

Regarding the policy recommendations, the Department will review existing policy guidance to identify revisions necessary to accommodate the gaps and emerging issues identified in the 813 and 875 reports. In addition, we will identify new and potentially more effective ways to communicate IP policy. For example, the Department of the Army recently issued its new IP policy, Army Directive 2018-26, "Enabling Modernization Through the Management of Intellectual Property," dated December 7, 2018 (available at https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/ARN14261_AD2018_26_Final.pdf), and will be issuing implementing guidance early in 2019, which may serve as a model for not only the other military departments, but also for an overarching Department-level policy and guidance issuances.

Regarding the practical recommendations, this may be the area in which the most significant improvements can be made. Regardless of how well-crafted the statutory, regulatory, and policy framework, the Department recognizes that a critical element in addressing the identified issues and challenges is in ensuring that our personnel are provided with all the necessary tools to make it all work in the real world.

Cross-cutting Principles and Threads

Throughout these efforts to address the regulatory, policy, and practical recommendations, there are a number of key principles and threads that cut across all of these activities, which the Department will be relying on to guide its efforts. These include:

- Delivery Requirements—Not Just Data Rights. The Department must reemphasize the importance of addressing its detailed requirements for the delivery of technical data and computer software, as a necessary complement to the license rights. The DFARS coverage focuses almost entirely on allocating license rights, leaving the issue of delivery requirements to be addressed on a case-by-case in each individual contract. As one element to address these challenges, the Department will update and clarify its guidance on managing data delivery requirements, including DoD Manual 5010.12, "Procedures for the Acquisition and Management of Technical Data."

- Timing: Start Early, Plan for Later. The Department's long-standing policy has been to address IP issues early in the program life cycle, and to plan to meet the Department's future needs, e.g., for reprocurement, sustainment, and upgrades. Too frequently, when faced with challenges of long-term planning without ready access to a crystal ball, programs succumb to this uncertainty by either deferring the decision regarding delivery requirements until later in the life cycle when plans are more certain, or by "asking for everything" up-front in order to preserve flexibility. Neither of these approaches is the best answer. The Department must emphasize the criticality of long-term planning during the earlier, more competitive phases of the program, while preserving flexibility to address developments in the program sustainment strategy. For example, by more widespread and consistent use of conditional or contingency-based mechanisms such as priced contract options, and escrow arrangements.

- Modular Open Systems Approaches (MOSA). Addressing IP requirements is a critical element of utilizing MOSA, including in meeting the statutory requirements at title 10, U.S.C., section 2446a *et seq*. In addition, MOSA is a natural complement to the DoD data rights legal and regulatory framework, which for decades has used a modular licensing scheme (a.k.a. the "doctrine of segregability"). More widespread use of MOSA will better enable the balancing of Government's desire for greater competition with industry's critical need to protect their proprietary IP interests, e.g., by allowing proprietary modules within a system to be treated as a "black box." In addition, several recent statutory changes that better enable MOSA (e.g., addressing interfaces necessary for segregation and reintegration activities, and major systems interfaces), have not yet been implemented in the DFARS, and thus will be a focus of the Department's efforts going forward.

- Specially Negotiated Licenses. Another core thread in recent legislative revisions that is further emphasized in the section 813 and 875 reports is to increase emphasis on specially negotiated licenses, rather than relying on the more limited number of standard license categories. In addition to presenting the opportunity for a tailored set of deliverables and associated license rights that better balance the parties' interests, such case-by-case negotiations are more consistent with commercial practices, and should be more effective at attracting non-traditional sources to do business with the Department. A key challenge in encouraging greater use of specially negotiated licenses is the need to train appropriate elements of the acquisition workforce regarding effective IP negotiations, which can become complex. See also, title 10, U.S.C., section 2320(f), and 2439.

- IP Strategies. The Department requires programs to establish and maintain an IP Strategy to identify and manage the full spectrum of IP issues from the inception of a program and throughout the life cycle. The IP strategy is a critical tool for synthesizing the various considerations and tradeoffs when managing a program's IP issues, and can provide a framework for more effectively communicating the Departments' approach to program IP with industry (e.g., industry days, draft solicitations), and for evaluating IP during source selection. The Department has been working to develop additional guidance for the acquisition workforce regarding the creation and continuous management of effective IP

Strategies, and will be working to finalize and publish this new guidance as part of these implementation activities. See also, title 10, U.S.C., section § 2320(e), 2322(a)(3) and (b)(3)(B), and 2431a(c)(2)(F).

- Education and Training. The Department recognizes the critical need to provide better training for its acquisition workforce to address IP issues. The Defense Acquisition University will review its curriculum to identify additional training opportunities, through integrating IP topics into existing courses, or developing additional IP focused training, as appropriate. The Department will seek to find the appropriate balance of broad-based training for all relevant functional areas in the acquisition workforce to enable earlier and more effective identification and resolution of the most common IP issues, combined with developing and leveraging a cadre of IP experts (see title 10, U.S.C., section § 2322(b)) to help programs address the more sophisticated challenges. In all of these efforts, the Department will seek to move away from training merely for the traditional acquisition workforce certifications, toward an approach that focuses on currency and just-in-time learning, and results in educating our workforce to exercise sound judgment, rather than merely training on topics, techniques, and tactics.

Conclusion

We recognize that Government and Industry have different views of IP and data rights. However, both are united in the desired outcome of our acquisition system delivering to the warfighter state of the art systems to defend the nation. A balanced IP approach that meets the needs of the warfighter while incentivizing private sector participation towards that end, is our goal. We will implement specific changes based on the recommendations that achieve that balance.

An identical letter has been sent to the other congressional defense committees.

Sincerely,

Ellen M. Lord

cc:
The Honorable Kay Granger
Ranking Member

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ACQUISITION
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FEB - 3 2019

The Honorable Adam Smith
Chairman
Committee on Armed Services
United States House of Representatives
Washington, DC 20515

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cc:
The Honorable William M. "Mac" Thornberry
Ranking Member

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3010 DEFENSE PENTAGON
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ACQUISITION
AND SUSTAINMENT

FEB - 3 2019

The Honorable Richard C. Shelby
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Department of Defense Comments and Recommendations

The Department agrees with and supports the general findings and recommendations in both the section 813 and section 875 reports. We recognize that a foundational challenge in this area is that the Department has insufficient organizational capacity to provide expertise in the acquisition of IP to support program managers throughout their programs' lifecycles (as well as other staff involved in weapon systems acquisition). This has hindered our ability to facilitate reprocurement, sustainment, modification, and upgrades to DoD systems throughout their lifecycle. We also recognize that fostering innovation for both national security and the economy overall must be a central tenet of our IP policy and procedures.

To address these challenges, I have formed an Intellectual Property Working Group (IPWG) at the Department level, including cross-functional representation (e.g., acquisition, sustainment, research & development, engineering, contracting, legal) from the Office of the Secretary of Defense and the Military Departments. In addition to further assessing and implementing the statutory, regulatory, policy, and practical recommendations from the section 813 and 875 reports, the IPWG will also coordinate Department-wide efforts to implement the requirements of title 10, U.S.C., section 2322, (resulting from section 802 of the NDAA for FY 2018), which align with and support the overall recommendations of those reports.

Statutory and Legislative Recommendations

The Department generally supports the statutory and legislative recommendations by the section 813 Panel to amend title 10, U.S.C., section 2320 and 2321, and for additional legislation not directed to those sections. Regarding the three tension points for which the section 813 Panel did not reach consensus, the Department supports the panel's majority position, and believes that the concerns identified in the minority position can be effectively addressed through appropriate implementation of the policy, regulatory, and practical recommendations.

We also note and support the two statutory recommendations from the section 813 Panel report that have already been addressed in recent NDAAs: The recommendation (paper # 22) to form a cadre of IP experts was addressed in section 802 of the NDAA for FY 2018 (P.L. 115-91), now codified at title 10, U.S.C., section 2322; and the recommendation (paper # 19) to clarify the mandatory presumption of development at private expense for commercial items in the procedures for challenging and validating asserted restrictions on technical data was addressed in section 865 of the John S. McCain NDAA for FY 2019 (P. L. 115-232) (amending title 10, U.S.C., section 2321(f)).

Regulatory, Policy, and Practical Recommendations

During the short term, while the statutory recommendations are pending in the legislative process, the IPWG will focus its efforts on implementation of the section 813 and 875 regulatory, policy, and practical recommendations. Specific attention will focus on requirements of existing statutes, including title 10, U.S.C., section 2322, and recent changes to title 10, U.S.C., section 2320 and 2321 that have not yet been fully implemented, as well as addressing the concerns raised by the 813 Panel's minority positions for three tension points where the panel failed to reach consensus.

The Department will address the contracting recommendations primarily through the Defense Federal Acquisition Regulation Supplement (DFARS) rulemaking process. As recommended by the 813 Panel, and as an exception to the most common rulemaking procedures, industry will be invited to participate earlier than usual in the rulemaking via public meetings, which will provide an opportunity for industry to participate in the actual drafting of both the proposed and final rules.

Regarding the policy recommendations, the Department will review existing policy guidance to identify revisions necessary to accommodate the gaps and emerging issues identified in the 813 and 875 reports. In addition, we will identify new and potentially more effective ways to communicate IP policy. For example, the Department of the Army recently issued its new IP policy, Army Directive 2018-26, "Enabling Modernization Through the Management of Intellectual Property," dated December 7, 2018 (available at https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/ARN14261_AD2018_26_Final.pdf), and will be issuing implementing guidance early in 2019, which may serve as a model for not only the other military departments, but also for an overarching Department-level policy and guidance issuances.

Regarding the practical recommendations, this may be the area in which the most significant improvements can be made. Regardless of how well-crafted the statutory, regulatory, and policy framework, the Department recognizes that a critical element in addressing the identified issues and challenges is in ensuring that our personnel are provided with all the necessary tools to make it all work in the real world.

Cross-cutting Principles and Threads

Throughout these efforts to address the regulatory, policy, and practical recommendations, there are a number of key principles and threads that cut across all of these activities, which the Department will be relying on to guide its efforts. These include:

- Delivery Requirements—Not Just Data Rights. The Department must reemphasize the importance of addressing its detailed requirements for the delivery of technical data and computer software, as a necessary complement to the license rights. The DFARS coverage focuses almost entirely on allocating license rights, leaving the issue of delivery requirements to be addressed on a case-by-case in each individual contract. As one element to address these challenges, the Department will update and clarify its guidance on managing data delivery requirements, including DoD Manual 5010.12, "Procedures for the Acquisition and Management of Technical Data."

- Timing: Start Early, Plan for Later. The Department's long-standing policy has been to address IP issues early in the program life cycle, and to plan to meet the Department's future needs, e.g., for reprocurement, sustainment, and upgrades. Too frequently, when faced with challenges of long-term planning without ready access to a crystal ball, programs succumb to this uncertainty by either deferring the decision regarding delivery requirements until later in the life cycle when plans are more certain, or by "asking for everything" up-front in order to preserve flexibility. Neither of these approaches is the best answer. The Department must emphasize the criticality of long-term planning during the earlier, more competitive phases of the program, while preserving flexibility to address developments in the program sustainment strategy. For example, by more widespread and consistent use of conditional or contingency-based mechanisms such as priced contract options, and escrow arrangements.

- Modular Open Systems Approaches (MOSA). Addressing IP requirements is a critical element of utilizing MOSA, including in meeting the statutory requirements at title 10, U.S.C., section 2446a *et seq*. In addition, MOSA is a natural complement to the DoD data rights legal and regulatory framework, which for decades has used a modular licensing scheme (a.k.a. the "doctrine of segregability"). More widespread use of MOSA will better enable the balancing of Government's desire for greater competition with industry's critical need to protect their proprietary IP interests, e.g., by allowing proprietary modules within a system to be treated as a "black box." In addition, several recent statutory changes that better enable MOSA (e.g., addressing interfaces necessary for segregation and reintegration activities, and major systems interfaces), have not yet been implemented in the DFARS, and thus will be a focus of the Department's efforts going forward.

- Specially Negotiated Licenses. Another core thread in recent legislative revisions that is further emphasized in the section 813 and 875 reports is to increase emphasis on specially negotiated licenses, rather than relying on the more limited number of standard license categories. In addition to presenting the opportunity for a tailored set of deliverables and associated license rights that better balance the parties' interests, such case-by-case negotiations are more consistent with commercial practices, and should be more effective at attracting non-traditional sources to do business with the Department. A key challenge in encouraging greater use of specially negotiated licenses is the need to train appropriate elements of the acquisition workforce regarding effective IP negotiations, which can become complex. See also, title 10, U.S.C., section 2320(f), and 2439.

- IP Strategies. The Department requires programs to establish and maintain an IP Strategy to identify and manage the full spectrum of IP issues from the inception of a program and throughout the life cycle. The IP strategy is a critical tool for synthesizing the various considerations and tradeoffs when managing a program's IP issues, and can provide a framework for more effectively communicating the Departments' approach to program IP with industry (e.g., industry days, draft solicitations), and for evaluating IP during source selection. The Department has been working to develop additional guidance for the acquisition workforce regarding the creation and continuous management of effective IP

Strategies, and will be working to finalize and publish this new guidance as part of these implementation activities. See also, title 10, U.S.C., section § 2320(e), 2322(a)(3) and (b)(3)(B), and 2431a(c)(2)(F).

- Education and Training. The Department recognizes the critical need to provide better training for its acquisition workforce to address IP issues. The Defense Acquisition University will review its curriculum to identify additional training opportunities, through integrating IP topics into existing courses, or developing additional IP focused training, as appropriate. The Department will seek to find the appropriate balance of broad-based training for all relevant functional areas in the acquisition workforce to enable earlier and more effective identification and resolution of the most common IP issues, combined with developing and leveraging a cadre of IP experts (see title 10, U.S.C., section § 2322(b)) to help programs address the more sophisticated challenges. In all of these efforts, the Department will seek to move away from training merely for the traditional acquisition workforce certifications, toward an approach that focuses on currency and just-in-time learning, and results in educating our workforce to exercise sound judgment, rather than merely training on topics, techniques, and tactics.

Conclusion

We recognize that Government and Industry have different views of IP and data rights. However, both are united in the desired outcome of our acquisition system delivering to the warfighter state of the art systems to defend the nation. A balanced IP approach that meets the needs of the warfighter while incentivizing private sector participation towards that end, is our goal. We will implement specific changes based on the recommendations that achieve that balance.

An identical letter has been sent to the other congressional defense committees.

Sincerely,

Ellen M. Lord

cc:
The Honorable Patrick J. Leahy
Vice Chairman

THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION
AND SUSTAINMENT

FEB - 3 2019

The Honorable James M. Inhofe
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Sections 813 and 875 of the National Defense Authorization Act (NDAA) for FY 2016 (Public Law (P.L.) 114-92) each require the Secretary of Defense to submit to the congressional defense committees any comments or recommendations on the findings contained in the separate reports created pursuant to those sections by a joint Government-industry advisory panel and an independent entity, respectively, regarding the statutes, regulations, policies, and practices related to the Department's acquisition of intellectual property (IP). Given the close nexus between the subject matters of these independent reports, the Department is consolidating its comments in this response letter, as stated in our letter to the committees on May 24, 2017.

Overview of the Section 813 and 875 Reviews

The Section 813 Government-Industry Advisory Panel

Section 813(b) of the NDAA for FY 2016, as amended by section 809 of the NDAA for FY 2017 (P.L. 114-328), directed the Secretary of Defense to establish a Government-Industry Advisory Panel (813 Panel) to review, and provide recommendations for any changes to, sections 2320 and 2321 of title 10, U.S.C., and the implementing regulations regarding rights in technical data and validation of proprietary data restrictions. The 813 Panel was charged to ensure the governing statutes and regulations are best structured to serve the interests of the taxpayers and the national defense, including by giving appropriate consideration to—

- Ensuring that the Department does not pay more than once for the same work;
- Ensuring that Department of Defense (DoD) contractors are appropriately rewarded for their innovation and invention;
- Providing for cost-effective reprocurement, sustainment, modification, and upgrades to DoD systems;
- Encouraging the private sector to invest in new products, technologies, and processes relevant to DoD missions;
- Ensuring that the Department has appropriate access to innovative products, technologies, and processes developed by the private sector for commercial use; and
- Ensuring that the Department and DoD contractors have the technical data rights necessary to support the Modular Open System Approach (MOSA) requirement set forth in title 10, U.S.C., section 2446a, taking into consideration the distinct characteristics of

major system platforms, major system interfaces, and major system components developed exclusively with Federal funds, exclusively at private expense, and with a combination of Federal funds and private expense.

The panel began its work in June 2016, with a balanced membership of panelists from industry and the Government. In accordance with the Federal Advisory Committee Act (FACA), the panel's meetings, information collected and generated, and other deliberative activities, were open to the public and are publicly available at https://www.facadatabase.gov/FACA/apex/FACAPublicCommittee?id=a10t0000001gzjuAAA. The panel's final report, "Government-Industry Advisory Panel on Technical Data Rights," dated November 13, 2018, was submitted to my office, as well as to the congressional defense committees, in mid-November 2018.

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Ranking Member