AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

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Honorable Adam Smith
Chairman
House Armed Services Committee
2120 Rayburn House Office Building
Washington, DC 20515

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

Dear Chairman Smith and Ranking Member Thornberry:

On behalf of the American Federation of Government Employees, AFL-CIO, (AFGE) which represents more than 700,000 federal and District of Columbia government employees who serve the American people in 70 different agencies, including approximately 300,000 in the Department of Defense (DoD), we appreciate your support of a strong national defense and your recognition of the importance of a professional, apolitical civil service supporting our uniformed warfighters deployed around the world. This letter summarizes our opposition to certain key parts of the "Expanding Acquisition Reform Act" (EARA) proposed by Ranking Member Thornberry.

AFGE strongly opposes the framework in Title II of the EARA that is intended to codify the DOD "Night Court" process. The three primary flaws of Title II include:

1. establishing a bureaucratic process of mandatory reporting of "reductions" characterized as "savings" to be submitted with the DoD budget that is mechanically enforced with mandatory funding withholds;

2. reporting these reductions to Congress as "savings" without taking into account the risk impact on readiness, lethality, stress on the force, workload and the investment costs associated with implementation; and,

3. imposing this regime without including in the baseline the substantial amounts DoD spends on contract services (at least one fourth of its topline budget) with the result that the bulk of reductions are imposed on DoD civilian employees

Although the EARA stipulates that "[t]he amount of savings shall not include amounts saved from the deferment of requirements or taking risk in activities", there are no meaningful guardrails in the law to make this a meaningful restriction. Indeed, assumptions about risk are typically inherent in most programmatic decisions that make assumptions during the course of the Future Year Defense Program. Deferring requirements is inherent to most programmatic

prioritization processes so it is unclear how any claimed savings wedge would ever meet that criteria.

AFGE has supported statutory provisions to eliminate inefficiencies and reduce duplication. We supported retention of SASC language in section 901 of its markup from last year that imposed a cyclical workload-based requirements validation process on all of DoD (and not just the 4th Estate) as part of the reform of headquarters personnel caps. Significantly, this provision also included striking the arbitrary 25 percent savings targets wrongly imposed on Defense Agencies and Field Activities. We supported the SASC language because it required an objective process without pre-determined outcomes of savings. In fact, an objective analysis of workload requirements may sometimes result in additional requirements. Indeed, most enduring efficiencies are not effectuated through management diktats in so-called "Night Courts" but involve the hard work of improving business processes and adopting technological improvements to those processes, usually generated by the people with expertise and knowledge of the processes. Unfortunately, the SASC language was struck in Conference, retaining the arbitrary 25 percent "savings" target.

Regimes of "savings" targets operate in the same manner as personnel caps. They are arbitrary, and tend to merely shift work to more expensive labor sources, particularly if those labor sources (such as services contracts) are not included in a holistic review of how the work in a particular function is performed. We understand that to be the case with the "Night Court", because "service contracts" continue to be sidelined in the Service Requirements Review Boards outside the Department's programming and budgetary processes in non-strategic acquisition planning reviews for individual contract actions. As a result, the civilian workforce continues to bear the brunt of programmatic reviews because of the insulation of service contracts requirements from competition and validation in the Program Objective Memorandum process, ignoring a longstanding GAO recommendation.

The EARA, and the "Night Court" processes it seeks to codify, are not really new or all that revolutionary from prior top-down programmatic drills. Such efforts often cloak themselves with the mantle of "reform" and "transformation" but really are spreadsheet exercises that generate bureaucratic reports and added management layers augmented with private consultants. "Savings" mandates imposed from on high become "five year plans" that later turn out to be overly optimistic projections and the process of imposing programmatic "savings" wedges each year on top of prior "savings" wedges collapse like a Ponzi scheme and result in degradations of capabilities.

Thank you for considering these concerns. Should you or your staff have any questions, please contact John Anderson, telework number (703) 943-9438, john.anderson@afge.org.

Sincerely,

Alethea Predeoux,
Director, Legislative Department