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Information and Analysis on Legal Aspects of Procurement

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¶ 19 FEATURE COMMENT: The Significance Of The Fiscal Year 2025 National Defense Authorization Act To Federal Procurement Law—Part II

On Dec. 23, 2024, President Biden signed into law the “Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025” (FY 2025 NDAA), P.L. 118-159. Because of the substantial volume of procurement law changes in the FY 2025 NDAA, this Feature Comment summarizes the more significant changes in two parts. Part I, which was published in the Jan. 22, 2025 issue of *THE GOVERNMENT CONTRACTOR*, [67 GC ¶ 11](#), addressed FY 2025 NDAA §§ 803–853. Part II addresses §§ 861–888, plus certain procurement law related sections in Titles I, II, III, IX, XIII, XV, XVI, XVII and LII.

Section 861, Codification & Modification of Pilot Program to Accelerate the Procurement & Fielding of Innovative Technologies—This section codifies a pilot program established by FY 2022 NDAA § 834 to accelerate the procurement and fielding of innovative technologies. See Schaengold, Schwartz, Prusock, and Levin, Feature Comment, “The FY 2022 National Defense Authorization Act’s Ramifications For Federal Procurement Law—Part II,” [64 GC ¶ 22](#). Section 861 modifies the FY 2022 NDAA § 834 pilot program by requiring that the program provide for the “issuance of not more than two solicitations for proposals by the Department of Defense in support of the program each fiscal year for innovative technologies from entities that, during the one-year period preceding the issuance of the solicitation, have not performed” DOD contracts or subcontracts under which DOD’s aggregate obligation to such entity exceeds \$400,000,000.

Section 863, Extension of Pilot Program for Streamlining Awards for Innovative Technology Projects—Section 863 amends FY 2016 NDAA § 873, which provided exemptions from requirements to provide cost or pricing data under the Truthful Cost or Pricing Data Act for DOD contracts, subcontracts, and modifications valued at less than \$7.5 million “awarded to a small business or nontraditional defense contractor pursuant to” “(1) a technical, merit-based selection procedure, such as a broad agency announcement, or (2) the Small Business Innovation Research Program.” See Schaengold, Broitman and Prusock, Feature Comment, “The FY 2016 National Defense Authorization Act’s Substantial Impact On Federal Procurement—Part II,” [58 GC ¶ 28](#). Section 863 extends these exemptions to multiyear contracts (as defined in 10 USCA § 3501), block buys, or multi-ship buys authorized by Congress. The section also extends the termination date for the exemptions to Oct. 1, 2029.

Section 875, Accessibility & Clarity in Covered Notices for Small Businesses—Section 875 requires covered notices, which are notices published by the secretary of defense (Secretary) or of a military department on *SAM.gov* marketing federal contract opportunities that pertain to small businesses (such as a sources sought notice or solicitation restricted to small businesses), to be written in a manner that is clear, concise and well-organized. The section also requires covered notices, to the maximum extent practicable, to “follow[] other best practices appropriate to the subject or field of the covered notice and the intended audience[.]” Each covered notice must, “to the maximum extent practicable, include key words in the description ... such that small business concerns seeking contract opportunities” on *SAM.gov* can easily identify and understand the notice. The secretary is required to issue rules implementing this section no later than March 2025.

Section 876, Small Business Bill of Rights—Section 876 requires the secretary (“acting through the Small Business Integration Group” led by the under secretary for acquisition and sustainment (under secretary)) to develop a Small Business Bill of Rights no later than December 2025. The bill of rights is intended to ensure a healthy partnership between DOD and the defense industrial base and encourage small businesses to contract with DOD by ensuring that customer service issues and conflicts between the parties are resolved expeditiously and that small businesses are aware of their rights to assistance under federal law in resolving such issues. The under secretary must provide a detailed briefing to the congressional armed services committees on implementation of the bill of rights by June 2025.

The bill of rights must (1) authorize DOD’s director of small business programs to establish a resolution process for conflicts that will apply throughout DOD; (2) authorize DOD’s director of small business programs, each such director for a military department, and members of DOD’s small business professional workforce to request assistance with customer service issues and conflicts from members of their component’s acquisition workforce, require timely responses from such members, and establish a framework provid-

ing for fair and reasonable resolution of complaints by small businesses for issues between them and DOD; (3) ensure that small businesses are informed of (a) their rights to assistance under the Small Business Regulatory Enforcement Act, Small Business Act, and other laws, (b) how to contact each task and delivery order ombudsman responsible for reviewing contractor complaints, (c) how to contact DOD and military department offices of small business programs, and (d) how to contact each DOD advocate for competition; (4) establish guidance for DOD personnel on small business rights and DOD personnel responsibilities under the bill of rights; and (5) coordinate assistance with other regulatory compliance assistance to small businesses, current and desired sets of authorities, roles, and responsibilities across the Offices of Small Business Programs, APEX Accelerators, members of DOD’s small business professional workforce, and other relevant DOD officials. DOD’s Office of Small Business Programs must develop annual metrics on the submission of complaints under the bill of rights and provide annual briefing on the metrics to the congressional armed services committees.

Section 881, Clarification of Waiver Authority for Organizational & Consultant Conflicts of Interest—Federal Acquisition Regulation subpt. 9.5 prescribes responsibilities, general rules, and procedures for identifying, evaluating, and resolving organizational conflicts of interest (OCIs). FAR 9.503 permits an agency head or designee to waive OCIs if it is in the Government’s best interest to do so. Section 881 requires that FAR 9.503 be revised so that (1) any request for an OCI waiver include a written justification; and (2) an agency head may not delegate the waiver authority below the deputy agency head.

Section 882, Reverse Engineering or Re-engineering for Production of Items—Not later than December 2025, the under secretary “shall establish a process to” “identify items for which” (i) “technical data is *not* available;” or (ii) “rights in such technical data does *not* allow for manufacturing of the item;” *and*, for such items, “create streamlined procedures for [their] production” “through reverse engineering or re-engineering” under the following circumstances:

(A) if production of the item may be required for

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- point of use manufacturing or for a contested logistics environment ...;
- (B) if the manufacturer of the item will not meet the schedule for delivery required ... to maintain weapon system readiness or responsiveness in the event of mobilization; or
 - (C) with respect to a item for which a head of the contracting activity [HCA] can only acquire by ... sole source contract, if such [HCA] submits ... a written determination that such reverse engineering or re-engineering is beneficial to sustain training or operations of [DOD] with respect to such item.

Section 885, Proposal for Payment of Costs for Certain Government Accountability Office Bid Protests—Not later than June 2025, the Comptroller General, “in coordination with the Secretary of Defense, shall submit” to the congressional defense committees, the House Oversight and Accountability Committee, and the Senate Homeland Security and Governmental Affairs Committee “a proposal” for (1) a “process for enhanced pleading standards,” “as developed by” GAO in coordination with DOD, for when a bid protester is “seeking access to [DOD] administrative records;” (2) two “benchmarks,” i.e., (i) a “chart of the average costs to [DOD and GAO] of a” “protest based on the value of the contract” protested, and (ii) a “chart of the costs of the lost profit rates of the contractor awarded a contract” that is protested “after such award;” and (3) a “process for payment by an unsuccessful” protester “to the Government and the” awardee. The “lost profit rates,” which would appear to be difficult to calculate, “shall be equal to the profit that the contractor ... would have earned if the contractor ha[d] performed under such contract during the period” contract performance was suspended under the Competition in Contracting Act. See 31 USCA § 3553(d). No further guidance is provided with respect to “enhanced pleading standards,” which appear to be designed to make it more difficult for a protester to receive “specific documents” requested as part of its protest under GAO Rules, see 4 CFR § 21.3(c), and possibly “relevant documents” that ordinarily accompany an Agency Report or are provided as part of the standard GAO protest process. See 4 CFR § 21.3(d).

Presumably, § 885 and its “proposal” will only apply to GAO protests involving DOD contracts but that

is not 100 percent certain because § 885(e)’s definitions of “covered protest,” “interested party” and “protest” are not limited to GAO protests of DOD contract awards. It would appear that, when submitted, the “proposal” will require an Act of Congress to implement, although it is possible that GAO and/or DOD may propose to implement it without further legislative action. If it is somehow the latter, notice and comment as to the proposed regulations should be required. See 41 USCA § 1707; FAR 1.501-2; FAR 1.301(b).

If the proposal in response to § 885, which is due in June 2025, is implemented, it will likely create new risks associated with filing a GAO protest as protesters will have to assess the potential of having to reimburse the Government (i.e., DOD and GAO) for costs associated with the protester’s “unsuccessful” litigation of the protest and the awardee for its lost profits. Moreover, the higher pleading standard could reduce the likelihood of a successful protest because of the potential for reduced availability of agency records to the protester.

Finally, § 885(f) amends 10 USCA § 3406(f)(1)(B) to raise GAO’s task and delivery order protest jurisdictional threshold for DOD, NASA and the Coast Guard from \$25 million to \$35 million. As a result, a larger number of these task and delivery order awards will not be reviewable by GAO or elsewhere (because the Court of Federal Claims generally lacks such jurisdiction and agency level protests are not authorized). The current \$10 million threshold for protesting a task or delivery order awarded by a civilian agency is unchanged.

Section 888, Tracking Awards Made Through Other Transaction Authority—This section provides that, no later than December 2025, the under secretary must “establish a process to track the number and value of awards to small businesses and nontraditional defense contractors performing on transactions using other transaction authority, including transactions carried out through consortia.” In collecting this data, the under secretary must minimize the reporting requirements on small businesses and nontraditional defense contractors and maximize, to the extent practicable, the use of existing DOD data collection processes.

* * *

Non-Title VIII FY 2025 NDAA provisions important to procurement law include:

Section 162, Measures to Increase Supply Chain Resiliency for Small Unmanned Aerial Systems (sUAS)—Section 162 requires DOD, no later than May 2025, to develop a supply chain framework to assess the risk of each sUAS component in DOD networks or operations and identify manufacturers of components based in China, Russia, Iran and North Korea, and evaluate risk mitigation measures. No later than June 2025, this section further requires DOD to identify sources of supply outside of those countries and to develop a plan to increase manufacturing capacity of such suppliers. In so doing, DOD is directed to disassemble a Chinese drone aircraft and create a taxonomy of components. DOD is required to submit the full strategy to congressional armed services committees, to include a list of components in the taxonomy.

Section 164, Prohibition on Operation, Procurement, & Contracting Related to Foreign-Made Light Detection & Ranging Technologies—Beginning on June 30, 2026, this section prohibits DOD from operating or procuring light detection and ranging technology that (i) is manufactured in, or the manufacturer is domiciled in, China, Russia, North Korea, or Iran; (ii) uses operating software developed in or by an entity domiciled in those countries; or (iii) uses network connectivity or data storage located in or administered by an entity in those countries. Section 164 further prohibits DOD from operating or procuring systems incorporating interfaces with such light detection ranging technology. The section allows for waivers on a case-by-case basis, upon written notification by DOD to the congressional defense committees.

Section 218, Modification to Consortium on Use of Additive Manufacturing for Defense Capability Development—This section amends FY 2024 NDAA § 223(c), which required DOD to establish a consortium to facilitate additive manufacturing for developing capabilities. Section 218 now adds to the consortium’s mission a requirement to “develop a process to certify new materials and processes for ‘flight critical

parts’ and initiate planning for a ‘rapidly deployable additive manufacturing system’ ” “capable of fabricating replacement safety-critical parts for military aircraft and” drones when “access to ‘traditionally manufactured replacement parts’ is ‘severely restricted.’ ”

Section 233, Management & Utilization of Digital Data to Enhance Maintenance Activities—Section 233 requires the under secretary, in consultation with the secretaries of the military departments and DOD’s chief digital and artificial intelligence officer, to implement policies to use digital data systems to enhance maintenance for aircraft, ships, and ground vehicles. The section requires the policies to include “investment in advanced and scalable data infrastructure,” using “*vendor-agnostic*, government-owned tagging and interoperable systems” whenever possible. No later than December 2025, the under secretary is required to brief the congressional armed services committees on the status of implementing the policies.

Section 316, Extension of Prohibition on DOD Requiring Contractors to Disclose Greenhouse Gas Emissions Information—FY 2024 NDAA § 318 prohibited DOD, for one year, from requiring contractors to provide information on greenhouse gas emissions as a condition of being awarded a DOD contract. Section 316 extends the prohibition for an additional two years (until Dec. 22, 2026). (For non-traditional contractors, this prohibition was made permanent last year.) This extension appears to be moot because, on Jan. 13, 2025, the Biden Administration withdrew the proposed rule that would have required such disclosure.

Section 319, Prohibition on Implementation of Regulation Minimizing Climate Change Risk—This section prohibits FY 2025 funds available to DOD from being “used to finalize or implement any rule based on advanced notice of proposed rulemaking titled ‘Federal Acquisition Regulation: Minimizing the Risk of Climate Change in Federal Acquisitions’ (Oct. 15, 2021; 86 Fed. Reg. 57404).” Like FY 2025 § 316, this section prohibits certain Biden Administration environmental policies, which appear to be antithetical to the policies of the incoming Trump Administration.

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Section 356, Program for Advanced Manufacturing in Indo-Pacific Region—No later than June 2025, this section requires the Navy secretary, in consultation with the U.S. Indo-Pacific Command (INDOPACOM), to establish an advanced manufacturing facility within INDOPACOM to support shipbuilding and defense activity industrial bases (including unmanned vehicles and maintenance capabilities). This section further requires the Navy secretary to submit a report to the congressional armed services committees on the program’s activities by December 1 of the year after the year in which the facility is established. Advanced manufacturing is defined as using the following techniques: additive manufacturing, wire-arc additive manufacturing, powder bed fusion, and other similar manufacturing capabilities.

Section 902, Establishment of DOD Performance Improvement Officer—Section 902 establishes the DOD Performance Improvement Officer (PIO), appointed by the secretary from the senior career civil service. The PIO’s responsibilities include updating and implementing DOD’s Strategic Management Plan, chairing the Defense Performance Improvement Framework (see 10 USCA § 125a), co-chairing “the Defense Business Council,” overseeing DOD’s “transformational business modernization and business process re-engineering,” and overseeing DOD efforts to address GAO’s “High-Risk List.” See www.gao.gov/high-risk-list.

Section 905, Modifications to Office of Strategic Capital—In December 2022, the secretary established the Office of Strategic Capital to “attract and scale investment to national security priorities” by leveraging U.S. capital markets. See www.cto.mil/osc/about/. Congress authorized the office in FY 2024 NDAA § 903 and created a pilot program that, subject to available appropriations, allows the office to provide loans, loan guarantees or technical assistance to eligible entities in specified technology categories. Section 905 moves the pilot program into 10 USCA § 149 and adds two technology categories but retains the Oct. 1, 2028 sunset of the authority to make loans, loan guarantees or provide technical assistance.

Section 924, Establishment of Office of Expanded

Competition—Similar to FY 2025 NDAA § 905, § 924 focuses on ways to invest in and protect the U.S. defense industrial base. Section 924 establishes (within the Air Force) the Office of Expanded Competition, whose responsibilities are generally DOD-wide and include analyzing adversarial capital flowing into industries or businesses relevant to DOD; identifying and prioritizing promising critical technologies in need of capital assistance; and funding, providing loans or loan guarantees, or giving technical assistance to such prioritized investments.

Section 1346, Modification of Public Reporting of Chinese Military Companies Operating in the U.S.—This section substantially amends FY 2021 NDAA § 1260H, including by requiring DOD to submit a justification for each entity included in the required report and by expanding the definition of Chinese military companies to include wholly-owned or controlled subsidiaries or affiliates, entities affiliated or controlled by specified Chinese organizations, and entities controlled by law enforcement, border control, the ministry of state security, and other specified Chinese government entities. This section requires the list and justifications to be published at least annually (vice ongoing reporting), and for DOD to submit biannual reports to the congressional armed services committees (from Dec. 31, 2026 through Dec. 31, 2031) on the listed entities and updates on implementing DOD procurement restrictions on the listed entities. For any judicial review, which right is not conferred or implied, of determinations under this section, classified information is permitted to be submitted to the court *ex parte* and *in camera*.

Section 1601, Modification of Space Contractor Responsibility Watch List—FY 2018 NDAA § 1612 established a watch list of “contractors with a history of poor performance on space procurement contracts,” from whom the Space Force may not solicit offers (or permit certain subcontracts). Section 1601 moves the law into 10 USCA § 2271a and also elevates responsibility for the list from the commander of the Air Force Space & Missile System Center to the Air Force assistant secretary for space acquisition & integration. The section also clarifies that a company *or division thereof* can be placed on the list, and that the basis for being

placed on the list is poor performance on one or more space procurement contracts; award fee scores below 50 percent; inadequate management, operational or financial controls or resources; inadequate security controls or resources (including Foreign Ownership, Control, or Influence); or “other failure of controls or performance ... so serious or compelling as to warrant placement” on the list. This section expands the list’s effect to cover virtually all transactions (not just contracts), requires that contractors being considered for the list be given notice and an opportunity to respond, and permits authority to place a company on the list to be delegated to the Air Force suspension and debarment official. This section states that it “shall [not] be construed as preventing the suspension or debarment of a contractor, but inclusion on the watch list shall not be construed as a punitive measure or de facto suspension or debarment.”

Section 1709, Analysis of Certain Unmanned Aircraft Systems Entities—Not later than December 2025, this section requires “an appropriate national security agency” (see 47 USCA § 1608) to determine if any “[c]ommunications or video surveillance equipment or services produced by” Shenzhen Da-Jiang Innovations Sciences and Technologies Co. Ltd. or Autel Robotics (or their subsidiaries, affiliates, partners, or joint ventures) pose an unacceptable risk to U.S. national security. If the appropriate national security agency fails to make a such a determination by December 2025, the Federal Communications Commission must “add all [such] communications equipment and services” to the covered list. This section also requires that agency, within 30 days of making any determination, to place the equipment or services on the covered list specified in 47 USCA § 1601 (Determination of Communications Equipment or Services Posing National Security Risks).

Section 5203, Administrative False Claims Act of 2023—This section revitalizes and expands the authority of the somewhat moribund Program Fraud Civil Remedies Act (PFCRA), P.L. 99-509, which is renamed the Administrative False Claims Act (AFCA). Agencies now have expanded authority to pursue and settle up to \$1 million (up from \$150,000 under the PFCRA) in fraud claims and false statements, which

amount will be adjusted in the future for inflation, that were made to the Government. Agencies can also now recoup their costs for investigating and prosecuting these false claims and statements. The AFCA does *not* include any qui tam provisions but does permit double damages (as opposed to treble damages under the civil False Claims Act).

The AFCA will almost certainly lead to closer agency scrutiny and enforcement of allegedly fraudulent but smaller dollar claims and statements, which increases risks associated with Government contracting. Moreover, since agency inspectors general have responsibility for enforcing the AFCA, which will involve administrative proceedings, and receiving contractor’s mandatory disclosures under FAR 52.203-13, see *id.* at 52.203-13(b)(3)(i), FAR 3.1003(b)(1), contractors need to be aware of the heightened scrutiny and potential related enforcement that could result from making (or failing to make) such disclosures, including suspension and debarment referrals. It appears likely that the AFCA will complement the FCA, particularly since (in contrast to the FCA) the AFCA includes liability for written false statements in the absence of any claim. As a result, it will likely be advisable for contractors to include releases of potential AFCA claims in FCA settlement agreements with the Government.

Agencies are empowered, if they “do[] not employ an available presiding officer,” to use a cognizant board of contract appeals judge to conduct hearings on matters subject to the AFCA. No later than June 2025, agencies (including the boards) shall promulgate regulations implementing the AFCA. Finally, the AFCA statute of limitations provides that “notice to the person alleged to be liable with respect to a claim or statement shall be mailed or delivered ... not later than the later of” (i) “6 years after the date on which the violation ... is committed;” or (ii) “3 years after the date on which facts material to the action are known or reasonably should have been known by the [Government], but in no event more than 10 years after the date on which the violation is committed.” This language is similar to that in the FCA, see 31 USCA § 3731(b), except that notice is triggered by its mailing or delivery as opposed to the filing of a lawsuit.

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The AFCA, however, may be vulnerable under *SEC v. Jarkesy*, 144 S. Ct. 2117 (2024), where the Supreme Court ruled that when the SEC seeks civil monetary penalties for securities fraud, the Seventh Amendment to the Constitution entitles a defendant to a jury trial. Although the Supreme Court’s ruling is limited to securities fraud, the AFCA, which provides for civil fraud penalties and a hearing before a “presiding officer” or board of contract appeals judge (but not a jury trial), could be found to be covered by the *Jarkesy* decision.

* * *

The FY 2025 NDAA includes artificial intelligence/cloud/software & cybersecurity-related provisions of interest to the procurement community:

Artificial Intelligence/Cloud/Software

Section 237, Pilot Program on Use of Artificial Intelligence for Certain Workflow & Operations Tasks—This section requires DOD, not later than February 2025, to establish a pilot (or designate an existing initiative) to assess using artificial intelligence (AI) to improve (i) operations for depots, shipyards, and other DOD-run manufacturing facilities, and (ii) contract administration. It further requires DOD to use “best in breed software platforms,” “consider industry best practices in the selection of software programs,” “implement the program based on human centered design practices to best identify the business needs for improvement,” and “demonstrate connection to enterprise platforms of record with authoritative data sources.” It does not require or articulate a preference for commercial systems. No later than one year after the commencement of the pilot program, DOD must submit a report to the congressional armed services committees that evaluates “each software platform used in the pilot program,” analyzes “how workflows and operations were modified as part of the pilot program,” and quantitatively assesses “the impact the software had at each location in which the pilot program was carried out.”

Section 1521, Usability of Antiquated & Proprietary Data Formats for Modern Operations—No later than September 2025, § 1521 requires DOD to

develop a strategy to implement “modern data formats” “as the primary method” for “electronic communication for command and control” and for “weapon systems.” The strategy is required to be accompanied by a five-year implementation roadmap. The definition of “modern data formats” includes “JavaScript Object Notation,” “Binary JavaScript Objection Notation,” and “Protocol Buffers data formats.” Upon completion of the strategy and roadmap, DOD must submit the strategy to the congressional armed services committees. Within 60 days of the strategy being completed, DOD and the military departments must each establish a pilot program for using modern data formats “to improve the usability and functionality” of data “stored in antiquated data formats,” and brief the armed services committees within 180 days on the progress of the pilot program, including “specific examples of the use of modern data formats” “to improve the usability and functionality of information stored or produced in antiquated data formats.” The pilot program sunsets in December 2030.

Notably, the Joint Explanatory Statement (JES) observed that “the diversity, age and complexity of” DOD’s information technology systems “poses a unique challenge to creating a truly integrated, interoperable and efficient information network capable of operating at speeds and with the adaptability to outpace and out-decide our adversaries. ... We believe that a better understanding of where DOD IT systems are reliant on such [‘outmoded and antiquated data’] formats and a concerted plan to identify and address the risks from such formats is” “critical.”

Cybersecurity

Section 1501, Modification of Prohibition on Purchase of Cyber Data Products or Services Other than Through the Program Management Office for DOD-wide Procurement of Cyber Data Products & Services—This section amends FY 2022 NDAA § 1521, which required DOD cyber data products or services to be procured through a centralized program management office. See Schaengold, Schwartz, Prussock, and Levin, Feature Comment, “The Fiscal Year 2022 National Defense Authorization Act’s Ramifications for Federal Procurement Law—Part II,” [64 GC](#)

¶ 22. Section 1501 creates an exception to the requirement to acquire cyber data products or services through a central program office when a DOD component submits a justification based on a compelling need, and either an urgent need or the need to ensure competition within the market supports an independent procurement.

Section 1612, Cyber Intelligence Capability—

Section 1612 adds 10 USCA § 430d, which requires DOD, by Oct. 1, 2026 (in consultation with the Director of National Intelligence), to ensure it has “a dedicated cyber intelligence capability” to support “military cyber operations” throughout DOD. In so doing, DOD is directed to include funding requests for such cyber capabilities in each budget request, beginning with the FY 2027 request, with funding for the program available from the U.S. Cyber Command under the Military Intelligence Program. “The National Security Agency may not provide information technology services for the dedicated cyber intelligence capability” “unless such services are provided under the Military Intelligence Program or the Information Systems Security Program.” Not later than Jan. 1, 2026, DOD shall submit to the congressional defense committees and the House Permanent Select Committee on Intelligence a report containing “an implementation plan for ensuring the dedicated cyber intelligence capability.” That plan shall include the “requirements for such capability,” an estimate of the “initial budget,” and an “initial staffing” plan. Within 60 days of delivering the report, DOD will provide a briefing. The JES notes the committees’ “continued support for the establishment of a cyber intelligence capability within [DOD].”

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Peering Ahead to the FY 2026 NDAA—2025 may see more substantial changes in acquisition than is typical. Most of the public attention has focused on the Department of Government Efficiency (DOGE), led by Elon Musk. While DOGE has called for substantial deregulation and significant disruption to the current way acquisition is executed Government-wide, its focus now appears to be on “modernizing Federal technology and software to maximize governmental

efficiency and productivity.” See www.whitehouse.gov/presidential-actions/2025/01/establishing-and-implementing-the-presidents-department-of-government-efficiency/. Perhaps overlooked are the efforts underway or being planned in Congress to streamline, improve, and refocus defense acquisition.

In December 2024, Sen. Roger Wicker (R–Miss.), chair of the Senate Armed Services Committee, introduced a major acquisition reform bill, the FoRGED Act (S. 5618–Fostering Reform and Government Efficiency in Defense). The bill seeks to repeal more than 300 acquisition-related provisions and amend or enact more than 50 provisions of law. This bill may drive debate on streamlining and deregulating acquisition. Rep. Mike Rogers (R–Ala.), chair of the House Armed Services Committee, has stated that acquisition reform is a top three priority going into the FY 2026 NDAA. In addition, on January 3, the House voted to renew the Select Committee on the Strategic Competition Between the U.S. and the Chinese Communist Party for the new (119th) Congress. In light of these events, the debate around the FY 2026 NDAA will likely include efforts to substantially streamline acquisition, strengthen and expand the defense industrial base, seek more insight into security of supply chains (including buy allies, more investment, and harmonization of statutes), and China. Many of these efforts appear aimed at readiness and operating in a contested logistics environment with a peer or near-peer adversary.

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