

Legal Perspectives on Some USD (AT&L) Initiatives

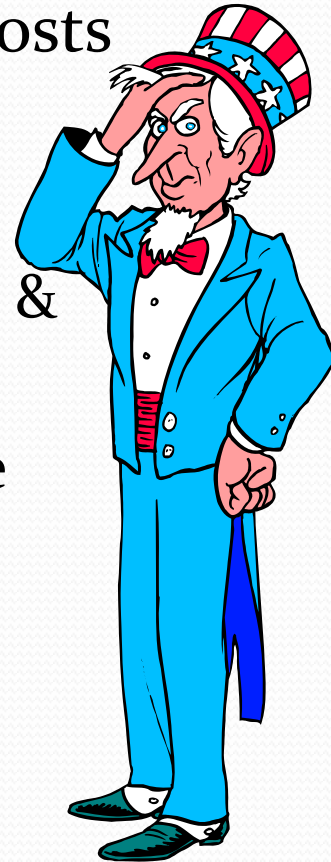
J. Rohm

NCMA

Mar 15, 2011

Worthy Goals, But Do Some Initiatives Potentially Conflict?

- We are very supportive of key points to drive costs out of the acquisition process
 - Target Affordability and Control Cost Growth
 - Reduction of Non-Value Added Processes, Laws & Burdens
 - Incentivizing Innovation & the Technology Base
- Tensions Between Different Goals
 - How they are implemented is the key





Ying vs.. Yang in Acquisition Initiatives

“Make Production Rates Economical & Hold Them Stable” vs..

- “Present Competitive Strategies At Each Program Milestone”
- “More Frequent Recompetes of Knowledge- Based Services”
- “Set Rules for Acquisition of Technical Data Rights”

Put This Initiative Against Historic Implementation of Five Year Defense Plans vs. Actual Funding By Congress...





Ying vs. Yang in Acquisition Initiatives



“Incentivize Innovation in Industry”
--Early Production FPIF 50/50 Share Line / 120% ceiling contracts
--Set Rules For Acquisition of Technical Data Rights

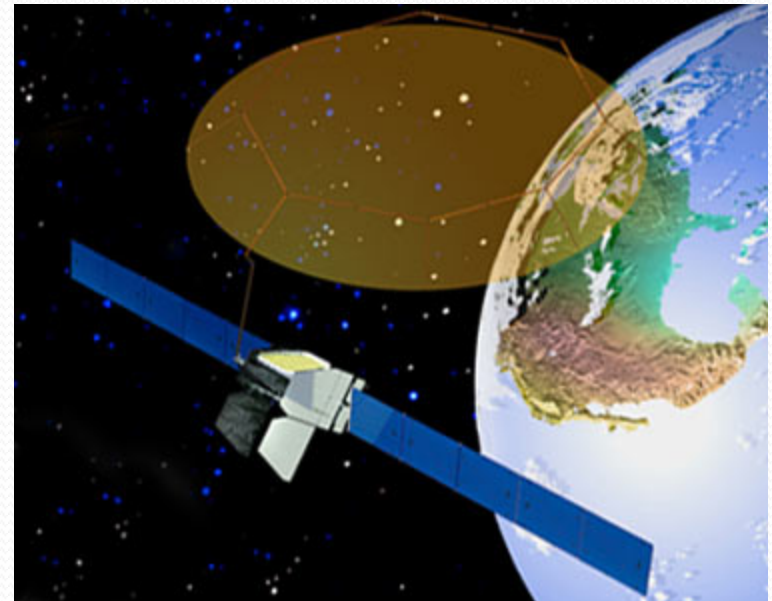
“Reinvigorate Industry’s IR&D and Protect the Defense Technology Base”

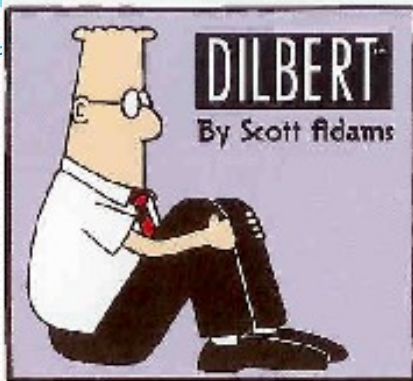
- Increase DDR&E and DCAA Oversight over company IR&D expenditures
- Adjust Progress Payments
- Set Rules For Acquisition of Technical Data Rights
- Backdrop of Other Government Initiatives (3% Withhold, DCAA “Empowerment”)



Ying vs. Yang in Acquisition Initiatives

- “Reduce Non-Productive Processes & Bureaucracy”
 - Mentions Nunn-McCurdy Tailoring (But Skips TINA Waivers or Raising TINA Thresholds)
 - “Require Non-certified cost or pricing data in competitive procurements”
 - “Eliminate Non-Value OH Impacts on Industry”
 - Cultural Challenge of Recognition
 - Comparison of New Satellite Bought by Commercial Buyer vs. US Government Procured Mature Satellite ...
 - Government Acquisition Policies & Cognitive Dissonance





© 2002 United Feature Syndicate, Inc.



Europe's Galileo Satellite

A Few New Ones To Think About

- Confront “Never Again” Syndrome in USG Acquisition
 - Look Back?
- National Policies to Develop Industrial Base
 - Orange County Register, Oct 14, 2010: *“Right now, the biggest exports going through the Ports of Long Beach and Los Angeles are for scrap metal and waste paper, said Walrod. But empty containers have exceeded exports in both the Ports of Long Beach and Los Angeles since May.”* So what can DOD do???
 - Offsets when USG or its primes buy from foreign sources
 - ITAR Reform (or, promises, promises)
 - Policies Regarding Reciprocal Open Govt Competitions
- Should Costing The Govt Acquisition Function
 - Culture, Rules, Structure (and the costs to follow them...)