

Federal News Network

By: Jason Miller | February 5, 2019

Don't exempt DoD from the Clinger-Cohen Act, modernize federal IT management instead

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The Section 809 panel caused quite a hubbub with its [recommendation](#) to exempt the Defense Department from the Clinger-Cohen Act—the seminal technology management law from 1996.

The panelists highlighted that the bill Congress passed and President Bill Clinton signed into law aimed to address how agencies plan, manage and oversee long, complex IT programs, which was the norm in the 1990s.

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The panel said the problem is the Pentagon now needs to move more quickly to get capabilities to the warfighter in order to keep up with China, Russia and other nation-state competitors and Clinger-Cohen is shackling DoD with 25-year-old requirements that don't fit the modern technology approaches.

A position few would disagree with. And the recommendation to disengage DoD from Clinger-Cohen is another example of the [frustration and disappointment](#) among many in the federal community over the implementation of the 22-year-old law.

“I definitely understand why they made the recommendation and it's not an unreasonable conclusion based on how the implementing regulation and culture has evolved. CCA isn't perfect although I'd equate this [recommendation] to curing the disease by killing the host,” said Paul Brubaker, a former Hill staff member who helped write the Clinger-Cohen Act, a former DoD deputy CIO and now president and CEO of the Alliance for Transportation Innovation. “The implementation of CCA within DoD has never been popular (except perhaps grudgingly when Bill Cohen was secretary of Defense). It's seen as a congressionally and Office of Management and Budget-imposed pain in the ass and so very few civilian political IT leaders (with some notable exceptions) have understood the role enough—or had the political backing—to effectively push back both internally and externally to lead. So now, after two decades, compliance is so utterly complicated and cumbersome (e.g., the Department of Defense Architecture Framework) that it's unmanageable — something 809 rightfully concluded. It's not the law so much as the cumulative weight of the OMB and agency implementation guidance, self-perpetuating IT management practices and the ‘self-licking ice cream cone’ support contractors who make gobs of money ‘helping’ government comply.”



Paul Brubaker is a former Hill staff member who helped write the Clinger-Cohen Act, a former DoD deputy CIO and now is president and CEO of the Alliance for Transportation Innovation.

Brubaker is not alone in his candid, and maybe a little cynical, examination of why the Section 809 panel made such a hardline and somewhat shocking recommendation.

Many long-time former federal IT executives translated the panel's recommendation to say times have changed and so too must the laws, processes and [expectations of technology management](#).

But, they say, let's not throw the baby out with the bathwater.

“The 809 report makes a good point that things have shifted and we no longer are buying capital assets. We are buying IT as a utility or as a service,” said Mark Forman, another former Hill staff member who helped write the law as well as a former administrator of e-government and IT in OMB and now vice president and global head of public sector for Unisys. “Clinger-Cohen focused on capital asset planning and treating IT as an investment and tying it to business results. What has changed is IT no longer requires capital asset planning and to be fair that part needs to be updated.”

But none of these long-time federal IT experts say exempting DoD from the law is the right answer to fixing the well-known and irritating after-effects of the Clinger-Cohen Act implementation.

Experts say over the last 20 years the litany of IT management laws — from the E-Government Act of 2003 to the Federal IT Acquisition Reform Act (FITARA) to the latest effort from Reps. Will Hurd (R-Texas) and Robyn Kelly (D-Ill.) called the Federal CIO Authorities — did two things: smoothed out some of the rough edges of the implementation of Clinger-Cohen, but at the same time added to the complexity of federal IT oversight.

Trapped in processes

What needs to happen, experts say, is a modernization and consolidation of federal IT laws, and therefore the processes that underlie those laws.

Bill Greenwalt, a former Senate Armed Services Committee professional staff member and former deputy undersecretary of defense for industrial policy, said DoD, and for that matter all agencies, are using antiquated approaches to capital planning and performance and results management, both of which are obstacles to faster procurements and capabilities.

“People are trapped in too many processes,” said Greenwalt, now a senior fellow at the Atlantic Council. “We are at least seven years before someone who has an idea can get it on contract. People want to do the right thing so we have to free them from some of those processes and so they can deal with the threat environment that DoD is facing today.”

Greenwalt and others say the implementation of the Clinger-Cohen Act has led checklists for capital planning, for oversight and for a host of other management processes.

And it's those checklists, or at least that checklist mentality, that gave the 809 Panel the motive for the recommendation.

Elliott Branch, the deputy assistant secretary for acquisition and procurement in the Office of the Secretary of the Navy for Research, Development and Acquisition, said the authors of Clinger-Cohen did not necessarily focus on DoD, and other similar agencies like NASA and the Energy Department, to implement the law because they had more mature processes to manage complex IT projects.

“The question in the Navy and other services and departments that have fairly robust requirements, resources and acquisition system, is what is the role of the CIO?” Branch said at the [Jan. 15 roll out](#) of the final set of recommendations. “That role, in my observation at least in DoD, has been driven by personality as much as anything. It vacillates from trying to get control of the requirements, resources and acquisition process, which is a losing battle because it's got its own statutory authority, and being a setter of standards, which is a job probably better done by the private sector, who for the most part are highly technical. Essentially, consistent with some of our other recommendations to eliminate paper that do not add value, you take the pieces of Clinger-Cohen that a decision-maker needs to have to make a good decision about an acquisition strategy and fold them into a program plan and get rid of the rest.”



Dave Wennergren is a former DoD deputy CIO and deputy chief management officer and now a managing director with Deloitte Consulting.

Dave Wennergren, a former DoD deputy CIO and deputy chief management officer, said the checklists tend to force CIOs to worry more about compliance than business needs.

But at the same time, Wennergren, now a managing director with Deloitte Consulting, said the Clinger-Cohen Act and its implementation never stopped him in either his deputy CIO or deputy CMO role from meeting the military's mission.

“You can drive decisions despite all the statutes. Statues do nothing to stop you from doing the job,” he said. “The issue becomes people too often fall back on the processes and the acquisitions we know. What the power of the 809 panel was, it got us to think about better ways to do business and drive IT acquisitions that reflect the best and brightest approaches.”

OMB recognized that the capital planning process is broken. Over the last two years, the administration has been moving agencies toward Technology Business Management standards through the Circular A-11 guidance.

OMB said the [goal is for TBM](#) to move the planning process from a static effort to a value-added dynamic one that cuts across the entire agency.

The administration also included TBM as part of the President's Management Agenda cross-agency priority goals. In December, OMB [reported](#) mixed results with TBM goals including completing the cost pool implementation report focused on authoritative data needed for the TBM cost pool layer, but also falling behind on developing governmentwide standards.

A more tailored IT management approach needed

Dan Chenok, the executive director for the IBM Center for the Business of Government and former OMB executive, said there is widespread recognition that the implementation of the law has caused acquisitions to slow down.

"I think an approach that would work would be to do a work break down structure of those processes and a simplification exercise to see what you need to do that will lead to improvements in the time it takes to acquire emerging technologies without sacrificing oversight and management," he said. "A more tailored response to this legitimate problem, which the panel articulated in the report, is to empower the CIO to work within a modernized statutory structure."

Chenok added the most successful private sector, and for that matter public sector, CIOs drive technology in support of architecture, modernization and mission support as part of an integrated management team.

"The CIO is the IT maestro leading the orchestra and the sections make the music on their own, but the technology often ties them together," Chenok said. "The statues left room for OMB to issue policy directives that called for enterprise, collaborative technology governance led by CIOs and involving agency CXO partners. But it would be beneficial to update and tie together all the current legislation and policies into a single comprehensive management framework as a roadmap for IT modernization."

Chenok's analysis of the CIO's role is where the 809 Panel really wants DoD, and for that matter all agencies, to recognize acquisition and the application of technology have changed, and recognize the CIO must be a different type of person with different skills, authorities and respect. Agencies who do that are among the most successful in using technology to drive mission and program success.

"Congress, OMB and the IT community are SO distracted from the underlying plot of the Clinger-Cohen Act – it was NEVER about the technology but rather how you could transform mission and support processes through the thoughtful application of technology," Brubaker said. "Agencies were to demonstrate how they were thoughtfully applying technology by presenting clear and compelling business cases for investing in technology then holding themselves accountable for producing measurable improvements in mission and operational performance. Sadly, OMB, GSA, agencies and CIOs just couldn't resist the temptation to over-prescribe compliance and pushing tasks that over-focused on technology and infrastructure which completely missed the point."

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