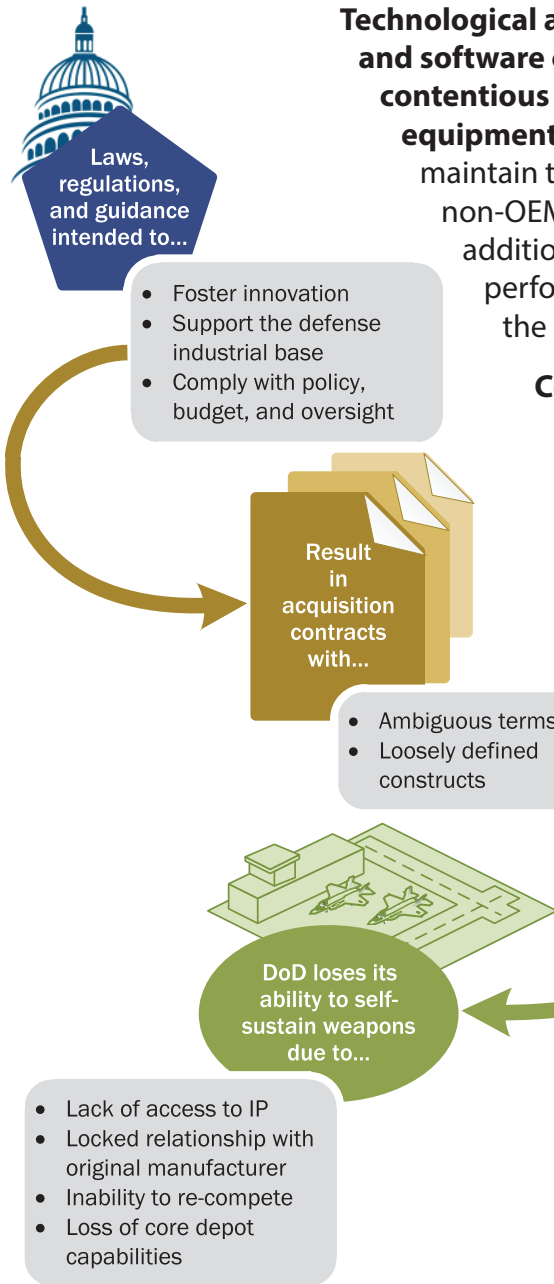


Intellectual Property and Weapon Sustainment

Richard H. Van Atta (rvanatta@ida.org)

The Department of Defense (DoD) often does not have access to weapon-related intellectual property (IP)—patents, copyrights, trademarks, and trade secrets—needed to repair and maintain weapon systems. The lack of rights to IP data contributes to higher long-term sustainment costs by inhibiting DoD’s ability to use competitive contracting for repair parts, maintenance, and follow-on production.



Technological advances and increased use of commercial components and software content in weapon systems have made IP issues more contentious between DoD and its contractors, especially original equipment manufacturers (OEMs).

While IP protections help OEMs maintain their competitive positions, DoD’s lack of access to IP weakens non-OEM contractors’ ability to compete for sustainment services. In addition, DoD lacks the technical data and software rights necessary to perform the full range of depot maintenance on key systems without the OEM’s participation.

Consolidation in certain sectors of the defense industry has contributed to reduced competition for key weapon systems.

At times, only one or two firms are in a position to bid on a particular weapon, leaving DoD with little negotiating leverage. The prospect for subsequent competition dissolves once a selection has been made, and the chosen firm gains even more leverage in future negotiations with the government over IP.

Given the long-term value of these contracts, the OEM’s advantage is essentially permanent across the system’s life cycle.

In fact, contractors sometimes bid low on development or production under the assumption that they will be called upon to provide profitable support over many years. Program management offices are thus challenged to weigh weapon performance needs within current cost and schedule constraints against future operations and maintenance costs.

The underlying assumptions about competitively bid contracts are no longer valid in the current situation. New thinking about the laws and regulations governing

IP for DoD weapon systems is warranted. Disentangling the opposing financial and operational interests in the IP-sustainment issue is difficult but necessary.

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