

## BOARD OF DIRECTORS

**Brad Antle**, Salient Federal Solutions, Chair  
**Bobbie Kilberg**, NVTC, President & CEO  
**Sudhakar Kesavan**, ICF International, Vice Chair  
**Jim Sheaffer**, CSC, Vice Chair  
**Stacy Mendler**, Alion Science and Technology, Secretary  
**Robin Lineberger**, Deloitte LLP, Treasurer  
**Scott Hommer**, Venable, General Counsel  
**Evan Weisel**, Welz & Weisel, Public Relations Advisor

**John Allen**, Bluestone Capital Partners LLC  
**Anne Altman**, IBM Corporation  
**Mike Bradshaw**, Google  
**John Burton**, Udata Partners  
**Matthew Calkins**, Appian  
**Teresa Carlson**, Amazon Web Services  
**Ed Casey**, Serco  
**Craig Chason**, Pillsbury Winthrop Shaw Pittman LLP  
**Steve Cooker**, Monster.com  
**Marilyn Crouther**, HP Enterprise Services  
**Karen Dahut**, Booz Allen Hamilton  
**Enrico Della Corna**, PNC Bank  
**Nelson Ford**, LMI  
**Mike Golden**, Wells Fargo  
**John Hagan**, BB&T Capital Markets|Windsor Group  
**Ted Hengst**, Harris IT Services Corporation  
**Steve Hills**, The Washington Post Company  
**Bob Johnson**, Sprint Nextel Corporation  
**Dan Johnson**, General Dynamics IT  
**Ray Johnson**, Lockheed Martin  
**Joel Kallett**, Clearlight Advisors  
**Bruce Klein**, Cisco Systems  
**Curt Kolcun**, Microsoft  
**Jack London**, CACI International  
**Michael Maiorana**, Verizon Wireless  
**Kyle McSllarrow**, Comcast-NBC Universal  
**Alan Merten**, George Mason University  
**Linda Mills**, Northrop Grumman Information Systems  
**Richard Montoni**, MAXIMUS  
**J.D. Myers**, Cox Communications  
**Raj Narasimhan**, Micron Technology  
**Phil Norton**, ePlus Inc.  
**Oscar Osorio**, Grant Thornton  
**Kevin Parker**, Deltek  
**Sterling Phillips**, GTSI Corp.  
**Rob Quartel**, NTEL - X  
**Rene Salas**, Ernst & Young  
**David Schaefer**, AH&T Insurance  
**Brad Schwartz**, Blue Canopy  
**Matthew Schwartz**, KPMG  
**Kim Shanahan**, Korn/Ferry International  
**Jean Stack**, Houlihan Lokey  
**Charles W. Steger**, Virginia Tech  
**Pete Stevenson**, Latisys  
**Sean Stone**, Silicon Valley Bank  
**Todd Stottlemeyer**, Acentia  
**Lydia Thomas**, Noblis  
**Marta Wilson**, Transformation Systems Inc.  
**John Wood**, Telos

## CHAIRMEN EMERITI

**John Backus**, New Atlantic Ventures  
**Edward H. Bersoff**, ATS Corporation  
**Kathy Clark**  
**Michael A. Daniels**, SAIC  
**John C. Lee IV**, Lee Technologies  
**David C. Lucien**, DCL Associates  
**Donna Morea**  
**Sudhakar Shenoy**, IMC

## HONORARY MEMBERS

**Jack Dale**, Fairfax County Public Schools  
**Gerald Gordon**, Fairfax County EDA  
**Ellen Harrison**, Equal Footing Foundation  
**Peter Jobse**, Center for Innovative Technology  
**Gary Pan**, The Entrepreneur Center @NVTC  
**Gary Shapiro**, Consumer Electronics Association

## SENIOR ADVISORY

**Greg Baroni**, Attain LLC  
**Mark Bisnow**, Bisnow on Business  
**Bob Dinkel**, Pierce Capital Partners  
**Mark Frantz**, BlueDelta Capital Partners  
**Deepak Hathiramani**, Vistronix  
**Hooks Johnston**, Valhalla Partners  
**Bob Kahn**, Corporation for National Research Initiatives  
**Steve Knapp**, The George Washington University  
**Jim LeBlanc**, Unity Resources Group  
**Paul Leslie**, Dovel Technologies Inc.  
**Paul Lombardi**, INpower  
**Lisa Martin**, LeapFrog Solutions  
**Warren Martin**, Argy, Wiltse & Robinson  
**Duffy Mazan**, Second Venue LLC  
**John Mendonca**  
**George Newstrom**, Dell  
**Len Pomata**  
**Gerald Rubin**, Janelia Farm Research Campus (HHMI)  
**Matthew Shank**, Marymount University  
**Mark Stauder**, Inova Health System  
**Bob Templin**, Northern Virginia Community College  
**Earle Williams**  
**Dendy Young**, McLean Capital



April 30, 2012

The Honorable Jim Webb  
United States Senate  
248 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Webb:

On behalf of the members of the Northern Virginia Technology Council (NVTC), we are writing to strongly oppose a legislative provision recommended by the Department of Defense (DoD) that would revise the government-wide definition of the term "commercial item" under the federal procurement statutes. DoD submitted this proposal to Congress on March 28, 2012, as part of its second package of legislative proposals.

More than 18 years ago, through the enactment of the 1994 Federal Acquisition Streamlining Act (FASA), and reinforced by enactment of the 1996 Federal Acquisition Reform Act (FARA), Congress recognized the value of providing federal agencies with the tools to more efficiently purchase commercial items to meet their needs and, in so doing, expand the competitive marketplace serving the government. Prior to these changes, many, if not most, commercial companies refused to do business with the federal government because of its unique cost accounting and other requirements, many of which bear little similarity to the generally accepted standards under which the commercial sector operates. FARA and FASA enabled agencies to procure, and industry to provide, solutions to the government by recognizing that commercial items do not need to be defined in rigid terms, i.e., that commercial items could be considered such despite the fact that they require some modest modifications in order to meet the government's requirements and, as such, have not necessarily actually been sold in the commercial space. For example, as the government migrates to a cloud computing environment, it seeks to capitalize on world-class commercial capabilities in that arena. Yet the government also has certain unique needs, particularly in terms of security, that are not precisely the same as those required by most consumers of cloud services.

Under the current statutory construct, such services are properly considered "commercial" and the marketplace includes an array of providers. Under the proposed definitional change, such services would no longer be considered "commercial" and many providers would have little choice but to exit significant portions of the market. Thus, the definition of a commercial item is intentionally constructed to enable items to be offered that are "of a type" routinely made available in the commercial marketplace and that are "offered for sale" but not yet sold in the commercial marketplace. This regime has worked well for all federal agencies.

Despite the mythology proffered by some, the current statutory definition does not preclude DoD (or any other agency) from determining the best method for acquiring a qualified commercial item and does not preclude DoD (or any other agency) from making the appropriate determination about the "fair and reasonable pricing" of that item. In simple terms, the department is conflating two separate issues — the determination of what is a commercial item and the best means by which to procure and ensure fair pricing for those items or services. Regrettably, instead of addressing these two distinct issues directly, the department proposes to constrain the types of items or services that can be defined as being commercial. We strongly oppose such action and do not believe that a legislative change to the definition is necessary or appropriate.



2214 Rock Hill Road Suite 300 Herndon, Virginia 20170 (703) 904 7878 fax: (703) 904 8008

## BOARD OF DIRECTORS

**Brad Antle**, Salient Federal Solutions, Chair  
**Bobbie Kilberg**, NVTC, President & CEO  
**Sudhakar Kesavan**, ICF International, Vice Chair  
**Jim Sheaffer**, CSC, Vice Chair  
**Stacy Mendler**, Alion Science and Technology, Secretary  
**Robin Lineberger**, Deloitte LLP, Treasurer  
**Scott Hommer**, Venable, General Counsel  
**Evan Weisel**, Welz & Weisel, Public Relations Advisor

**John Allen**, Bluestone Capital Partners LLC  
**Anne Altman**, IBM Corporation  
**Mike Bradshaw**, Google  
**John Burton**, Udata Partners  
**Matthew Calkins**, Appian  
**Teresa Carlson**, Amazon Web Services  
**Ed Casey**, Serco  
**Craig Chason**, Pillsbury Winthrop Shaw Pittman LLP  
**Steve Cooker**, Monster.com  
**Marilyn Crouther**, HP Enterprise Services  
**Karen Dahut**, Booz Allen Hamilton  
**Enrico Della Corna**, PNC Bank  
**Nelson Ford**, LMI  
**Mike Golden**, Wells Fargo  
**John Hagan**, BB&T Capital Markets[Windsor Group  
**Ted Hengst**, Harris IT Services Corporation  
**Steve Hills**, The Washington Post Company  
**Bob Johnson**, Sprint Nextel Corporation  
**Dan Johnson**, General Dynamics IT  
**Ray Johnson**, Lockheed Martin  
**Joel Kallett**, Clearlight Advisors  
**Bruce Klein**, Cisco Systems  
**Curt Kolcun**, Microsoft  
**Jack London**, CACI International  
**Michael Maiorana**, Verizon Wireless  
**Kyle McSarrow**, Comcast-NBC Universal  
**Alan Merten**, George Mason University  
**Linda Mills**, Northrop Grumman Information Systems  
**Richard Montoni**, MAXIMUS  
**J.D. Myers**, Cox Communications  
**Raj Narasimhan**, Micron Technology  
**Phil Norton**, ePlus Inc.  
**Oscar Osorio**, Grant Thornton  
**Kevin Parker**, Deltek  
**Sterling Phillips**, GTSI Corp.  
**Rob Quartel**, NTEL - X  
**Rene Salas**, Ernst & Young  
**David Schaefer**, AH&T Insurance  
**Brad Schwartz**, Blue Canopy  
**Matthew Schwartz**, KPMG  
**Kim Shanahan**, Korn/Ferry International  
**Jean Stack**, Houlihan Lokey  
**Charles W. Steger**, Virginia Tech  
**Pete Stevenson**, Latisys  
**Sean Stone**, Silicon Valley Bank  
**Todd Stottlemeyer**, Acentia  
**Lydia Thomas**, Noblis  
**Marta Wilson**, Transformation Systems Inc.  
**John Wood**, Telos

## CHAIRMEN EMERITI

**John Backus**, New Atlantic Ventures  
**Edward H. Bersoff**, ATS Corporation  
**Kathy Clark**  
**Michael A. Daniels**, SAIC  
**John C. Lee IV**, Lee Technologies  
**David C. Lucien**, DCL Associates  
**Donna Morea**  
**Sudhakar Shenoy**, IMC

## HONORARY MEMBERS

**Jack Dale**, Fairfax County Public Schools  
**Gerald Gordon**, Fairfax County EDA  
**Ellen Harrison**, Equal Footing Foundation  
**Peter Jobse**, Center for Innovative Technology  
**Gary Pan**, The Entrepreneur Center @NVTC  
**Gary Shapiro**, Consumer Electronics Association

## SENIOR ADVISORY

**Greg Baroni**, Attain LLC  
**Mark Bisnow**, Bisnow on Business  
**Bob Dinkel**, Pierce Capital Partners  
**Mark Frantz**, BlueDelta Capital Partners  
**Deepak Hathiramani**, Vistrionix  
**Hooks Johnston**, Valhalla Partners  
**Bob Kahn**, Corporation for National Research Initiatives  
**Steve Knapp**, The George Washington University  
**Jim LeBlanc**, Unity Resources Group  
**Paul Leslie**, Dovel Technologies Inc.  
**Paul Lombardi**, INpower  
**Lisa Martin**, LeapFrog Solutions  
**Warren Martin**, Argy, Wiltse & Robinson  
**Duffy Mazan**, Second Venue LLC  
**John Mendonca**  
**George Newstrom**, Dell  
**Len Pomata**  
**Gerald Rubin**, Janelia Farm Research Campus (HHMI)  
**Matthew Shank**, Marymount University  
**Mark Stauder**, Inova Health System  
**Bob Templin**, Northern Virginia Community College  
**Earle Williams**  
**Dendy Young**, McLean Capital



We urge the committee to exclude this provision from the fiscal year 2013 National Defense Authorization Act. If action is necessary, we recommend that the committee direct the department to address any regulatory or training gaps that may exist regarding the tools and techniques that are available to DoD contracting officers, including guidance and training on how to acquire such items and how to ensure that prices offered are "fair and reasonable."

Thank you for your consideration.

Sincerely,

**Brad Antle**  
NVTC Board Chair  
President, Salient Federal Solutions

**Bobbie Kilberg**  
President and CEO

