



May 5, 2009

Chairman Carl Levin  
U.S. Senate Committee on Armed Services  
228 Russell Senate Office Building  
Washington, DC 20510

Ranking Member John McCain  
U.S. Senate Committee on Armed Services  
228 Russell Senate Office Building  
Washington, DC 20510

Via Facsimile: 202-228-0036

Dear Chairman Levin and Ranking Member McCain,

The undersigned groups applaud your commitment to reforming and improving the Department of Defense's (DoD's) acquisition system through the Weapons Acquisition Reform Act of 2009 (S. 454) and the Weapons Acquisition System Reform Through Enhancing Technical Knowledge and Oversight (WASTE TKO) Act of 2009 (H.R. 2101). Both pieces of legislation include important provisions to restore discipline to DoD's procurement process. As the final legislation is worked out in conference, we believe that the following principles should be preserved:

***Ensuring only programs with design maturity move forward*** – Programs that enter production before their designs are mature are vulnerable to gross schedule and cost overruns. The Senate bill advocates a strategy that would significantly improve programs by requiring design reviews to certify that programs have attained an appropriate level of design maturity before a program is approved for System Capability and Manufacturing Process Development. As a result of this reform, program and cost risk could be significantly reduced.

***Elevating independent cost estimates*** – We support the establishment of a Director of Independent Cost Assessment to provide oversight and implement policies and procedures to

make sure that the cost estimation process is reliable and objective. Creating this new, independent position is important to prevent the cycle of costs that exceed estimates due to insufficient knowledge of accurate requirements.

***Increasing accountability for programs that experience critical cost growth*** – Both bills propose language that place additional and needed scrutiny on programs that experience critical cost growth. The House bill seeks to increase accountability by asking for an assessment of the root cause of growth, program validity, the viability of program strategy, and the quality of program management to determine whether a program should be terminated. But we believe the more aggressive strategy advocated by the Senate will do more to increase program discipline by requiring that a program be terminated unless the Secretary determines that it is essential to national security, and includes documentation that also states that 1) there are no alternatives to the acquisition program “which will provide equal or greater capability to meet a joint military requirement”; 2) the new acquisition cost or procurement unit costs are reasonable; and 3) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost. By also rescinding the most recent Milestone approval and requiring a new approval, we believe program management for programs that experience critical cost growth will be improved.

***Reducing organizational conflicts of interest*** – Independent analysis is key to ensuring that DoD decision makers are given unbiased, accurate information upon which to base program decisions. While we applaud the House for calling for a study to examine how to eliminate or mitigate organizational conflicts of interest, we also strongly support preventing organizational conflicts. The Senate version of this bill would decrease conflicts of interest by mandating that DoD seek independent advice on systems architecture and systems engineering for major weapon systems. We also support the language initially proposed in S. 454 that would require that a contract for the performance of systems engineering and technical assistance (SETA) functions for major weapons systems contain a provision prohibiting the contractor or any affiliate of the contractor from having a direct financial interest in the development or construction of the weapon system or any component thereof. We urge you to include the “Organizational Conflict of Interest” provision that explicitly defines the minimum regulations to be enacted that will preclude contractors from advising the Department of Defense on weapons systems and then developing them.

***Increasing competition in major weapons systems*** – Both bills enhance competition in the procurement process that will translate into the best value for taxpayers and also serves as an important tool to prevent waste, fraud, and abuse. We support the language in both bills encouraging programs to utilize methods such as competitive prototyping, dual-sourcing, periodic competitions for subsystem upgrades, licensing of additional suppliers, and periodic system or program reviews to address long-term competitive effects of program decisions. But we believe that competition, and with it benefits to taxpayers, will be only be further enhanced by measures in the Senate bill to increase the use of government oversight or approval in make or buy decisions at every system level.

***Increasing transparency in the waiver process*** – The answer to solving the problems with DoD’s procurement process is not simply a matter of making new rules. We believe that many of

the rules and controls are already in place for responsible procurement of weapons systems, but that these rules are too frequently ignored or otherwise not followed, resulting in a system that has been plagued by cost and schedule overruns. The House adopts an important strategy for this effort by forcing DoD to supply Congress with explanations for waivers to key provisions for Milestone decisions and follow-up annual reviews of these programs. This significantly increases Congress's ability to oversee DoD and make sure that taxpayers are getting the national security capabilities they need at a reasonable price.

We also support the proposed reforms to increase the emphasis on systems engineering, developmental testing, and technology maturity assessments, along with confidence levels for cost estimates. All of these principles help programs to have a strong foundation.

As important as all of these provisions are, it's important to recognize that this legislation is only one step in reforming weapons acquisition. The defense procurement process is also in desperate need of discipline. Standards for appropriate levels of design maturity should be clearly defined to meet missions and requirements. Waivers from procurement rules should be used rarely, should be the exception, not the rule, and should be made available to both Congress and the public. Additionally, spiral acquisition contracts should not be used to push immature technologies back in the production process, where they can still endanger the program's cost and schedule. All technologies should be mature before committing to production.

In the short term, Defense Secretary Robert Gates has demonstrated his commitment to restoring discipline to the Pentagon's weapons acquisition by his aggressive program cuts, and Congress should follow his lead in putting the public good ahead of their parochial interests. But in order to achieve lasting, meaningful change, the Pentagon must follow the rules and controls in place, and Congress must conduct oversight to make sure that they do so. We look forward to working with you in the future to implement these changes.

Sincerely,

**Project On Government Oversight (POGO)**

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