



May 16, 2014

The Honorable Carl M. Levin
Chairman
Senate Armed Services Committee
Russell Senate Building, Room 228
Washington, D.C. 20510-6050

The Honorable James M. Inhofe
Ranking Member
Senate Armed Services Committee
Russell Senate Building, Room 228
Washington, D.C. 20510-6050

Dear Chairman Levin and Ranking Member Inhofe,

On May 7, the House Armed Services Committee released its version of the National Defense Authorization Act (NDAA) for Fiscal Year 2015. While there are a number of problematic elements in this massive bill, of particular concern to the Project On Government Oversight (POGO) is some deplorable language that could serve to undermine the effectiveness of the office of the Director, Operational Test and Evaluation (DOT&E) at the Department of Defense.

DOT&E conducts a number of essential activities for Congress and the Secretary of Defense. The office sets policies and procedures for realistic operational testing of weapons and objective evaluation; independently plans those operational tests; and conducts objective, unvarnished reporting to both Congress and the Secretary of Defense on the results of those tests for major acquisition programs.

Not surprisingly, some in the defense industry, Pentagon, and Congress are arguing that rigorous testing and unbiased evaluation of weapons systems is an unnecessary hurdle because it slows down the acquisition process and causes undue delays in the delivery and introduction of new platforms. The fact that effective operational testing of weapons uncovers problems before ramping up production—thereby saving money and lives in the long-term—seems to be lost on those who are focused on short-term corporate reports and career advancement.

In response to an industry-allied agenda, the House Armed Services Committee has included language in its mark that would require DOT&E to:

Consider the potential for increases in program cost estimates or delays in schedule estimates in the implementation of policies, procedures, and activities related to operational test and evaluation, and to take appropriate action to ensure that the conduct of operational test and evaluation activities do not unnecessarily impede program schedules or increase program costs.

In other words, the House Armed Services Committee wants the Pentagon's top weapons tester to restrict thorough operational testing to avoid what they claim are cost increases and production schedule delays—even if they are short-term. Clearly, these claims do not consider even larger—by far—offsetting long-term cost increases and longer production stretch outs associated with insufficiently tested, flawed hardware that has to be fixed at great expense and only after still more delay.

The idea that Congress and the Pentagon should commit to production of a Major Defense Acquisition Program in advance of fully knowing actual cost and demonstrated performance flies in the face of all the negative lessons of recent acquisition horror stories. On bad advice, the House Armed Services Committee has presumed that operational testing—the final test before full rate production—is the culprit for schedule delays and cost increases: we know from various studies already available from DOT&E that many major weapons programs vastly exceed their planned development budget and breach their schedule long before entering operational testing.

The House Armed Services Committee apparently wants to handcuff the one lever—early and adequate independent operational testing—available to Congress and the American taxpayer to be assured that the commitment of billions of dollars will result in weapons for our Armed Forces that are effective, reliable, and at a confirmable cost.

The House Armed Service Committee's NDAA also includes report language instructing the Government Accountability Office (GAO) to evaluate whether DOT&E causes unnecessary delays in weapons procurement:

To help inform the committee's understanding of how operational test and evaluation processes and activities may unnecessarily increase schedule and cost of major defense acquisition programs, the committee directs [GAO] to review operational test and evaluation processes and activities.

Rather than undermining the ability of DOT&E to realistically and thoroughly test new weapons systems by imposing a GAO study conducted under biased instructions, it would be far more constructive if the House Armed Services Committee were to agree to enhance DOT&E's ability to conduct even more realistic and thorough testing with expanded resources and thoroughly protected independence. A quick look at some major acquisition programs in the news confirms that the problems and DOT&E's role in addressing them are real.

For example, DOT&E reporting revealed unpredicted and serious cracks in multiple F-35 structural components, requiring time and money to redesign and repair previously fabricated F-35s and, of course, all future production. This not only made the most expensive weapons system in U.S. history even more costly, but might also delay the initial operating capability date of the F-35B, if not that of other models for the U.S. and international buyers. At a minimum, it will create either additional maintenance inspections or flight restrictions until flawed aircraft are modified.

Should DOT&E have kept the deficiency to itself or have been kept from identifying it? DOT&E also revealed that F-35 weapons integration testing is not being conducted in a realistic manner. Should DOT&E defer to schedule considerations before reporting that weapons integration testing is insufficient to determine the real combat capability of the F-35? Would Congress and warfighters prefer to learn whether or not the F-35 is lethal years later on the battlefield?

Another program that has received a lot of press attention recently is the Littoral Combat Ship (LCS). POGO has, in the past, identified the ship's flawed design, failed equipment, and construction deficiencies, including corrosion problems, power and engine-related failures, and cracks in the LCS's

hull. The answer to the problems identified by POGO is more testing and evaluation not less, and we would never have been able to identify them without the kind of testing and reporting DOT&E requires.

The problem of being strapped with flawed ships in combat will certainly not be cured by the diminished testing and reporting that the House Armed Services Committee advocates. Indeed, the value of the existing process was demonstrated when Secretary of Defense Chuck Hagel recently called for a significant reduction in the number of LCS procured due to his serious concerns about the vessel's survivability in hostile combat environments—concerns originally raised by DOT&E. There are multiple other examples of the value of early, thorough weapons testing and complete and objective reporting; the fact that DOT&E's annual report is voraciously consumed by congressional staff, including Armed Services Committee staff, makes painfully obvious that any effort to diminish this process is ill advised.

Moreover, DOT&E recently published an analysis on its website that makes quite obvious the negative consequences of accepting the advice of the House Armed Services Committee on these testing issues. Entitled "Realistic Operational Testing and System Requirements," this analysis addresses specific testing issues concerning not just the aforementioned F-35 and LCS, but also the Navy's P-8A aircraft, CVN-78, and 79 aircraft carriers and the Army's Paladin Integrated Management Program and Gray Eagle UAV.

Instead of issuing a directed evaluation exercise to GAO, we should be observing what it has already recommended for the acquisition process. Those recommendations, reiterated annually for many years, warns Congress of the negative consequences—added cost, delays, and ineffective unsupportable equipment—due to concurrency and the diminished testing and reporting it implies. If the provisions recommended by the House Armed Services Committee are enacted into law as written, the opposite of what GAO has recommended will more likely occur.

We respectfully request that the Senate not include statutory language in its version of the NDAA instructing DOT&E to restrict realistic, adequate operational testing; doing so will avoid the very cost increases and schedule delays the House purports to oppose. We also request that the Senate include report language in its version of the NDAA that alters the scope of the GAO report instructions to objectively—without bias—seek what we all desire: testing, evaluation, and reporting that makes demonstrated cost and performance available to the Department of Defense, Congress, and the public before, not after, the Pentagon commits major systems to full scale production.

Not just money and time, but also lives, are at stake.

Thank you for your consideration,



Danielle Brian
Executive Director
Project On Government Oversight (POGO)

cc: Members of the Senate Armed Services Committee