



September 5, 2018

The Honorable James Inhofe
Chairman
Senate Committee on Armed Services
205 Russell Senate Office Building
Washington, DC 20510

The Honorable Jack Reed
Ranking Member
Senate Committee on Armed Services
728 Hart Senate Office Building
Washington, DC 20510

The Honorable Richard Shelby
Chairman
Senate Committee on Appropriations
304 Russell Senate Office Building
Washington, DC 20510

The Honorable Patrick Leahy
Vice Chairman
Senate Committee on Appropriations
437 Russell Senate Office Building
Washington, DC 20510

The Honorable Mac Thornberry
Chairman
House Committee on Armed Services
2120 Rayburn House Office Building
Washington, DC 20515

The Honorable Adam Smith
Ranking Member
House Committee on Armed Services
2120 Rayburn House Office Building
Washington, DC 20515

The Honorable Rodney Frelinghuysen
Chairman
House Committee on Appropriations
2306 Rayburn House Office Building
Washington, DC 20515

The Honorable Nita Lowey
Ranking Member
House Committee on Appropriations
2365 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen and Ranking Members:

The Project On Government Oversight (POGO) has spent over 35 years investigating waste, mismanagement, and abuse in the Department of Defense's (DoD) weapons acquisition system. We recently came into the possession of a document showing how the Joint Strike Fighter Program is dealing with potentially life-threatening design flaws on the F-35 in an attempt to mislead you and the American people. We urge you to request more information from the Pentagon about how the program is handling deficiencies. Additional funding for the program, including appropriating F-35 production beyond the Pentagon's request and any further reprogramming requests, should be contingent upon correcting these deficiencies. Any additional airframes purchased now would be riddled with these and other design flaws that would need to be retrofitted later at additional taxpayer expense.

The document shows that instead of correcting these design deficiencies, the program has chosen to simply alter paperwork to make them appear less serious than they really are.¹ The meeting

¹ Dan Grazier, "F-35 Program Cutting Corners to 'Complete' Development," *Project On Government Oversight*, August 29, 2018. <https://www.pogo.org/investigation/2018/08/f-35-program-cutting-corners-to-complete-development>

notes of the June 4, 2018 Joint Strike Fighter Program Office Deficiency Review Board meeting show the Board downgraded 19 serious (Category I) deficiencies to the less-serious Category II, including 10 with no plan in place to correct the known design flaws. Several of these flaws, like the lack of any means for a pilot to confirm a weapon's target data before firing, and damage to the plane caused by the tailhook on the Air Force's variant, have potentially serious implications for safety and combat effectiveness. In addition to these deficiencies, we remain concerned about how the program will address 90 other Category I deficiencies the Government Accountability Office reported on in its June 2018 report.²

The arbitrary fashion in which these deficiencies are being treated now stands in stark contrast with how they were first identified. The testing engineers evaluating the F-35 flight tests identify design flaws and determine their severity based on the potential impact on safety and mission effectiveness and recommend a categorization level. The testing agencies, the services, and the F-35 program office then review these recommendations to arrive at agreed-upon categorization levels, which are then entered into the formal reporting system as deficiency reports.

Per Air Force regulations, Category I deficiencies “require the immediate attention and response of the system Program Manager and Chief/Lead Engineer to mitigate risk and/or limit/resolve mission impact.”³ The Department of Defense's acquisition regulations state that all critical deficiencies must be resolved before a program can proceed beyond low-rate initial production unless the official with milestone decision authority approves a deviation.⁴

Design flaws serious enough to be classified as Category I threaten a program's entry into initial operational test & evaluation because each deficiency becomes one more issue that could keep an aircraft grounded or force the pilot to abort a mission. This would then delay the director, operational test & evaluation from analyzing the testing data and submitting the final assessment. According to federal law, full-rate production cannot begin until a report from the DOT&E stating “whether the results of such test and evaluation confirm that the items or components actually tested are effective and suitable for combat” has been submitted to the secretary of defense and Congress.

It is our belief that program leaders are doing this to mislead Congress and the public that they have successfully completed the F-35's development phase and that any remaining problems are minor ones they will fix later. They know that further delays in the program threaten the services' plans to proceed with full-rate production next year.

We believe it is important for you to understand how this process is unfolding so that you can make the best decisions possible for the men and women who will have to trust their lives to this

² Government Accountability Office, *F-35 Joint Strike Fighter: Development is Nearly Complete, but Deficiencies Found in Testing Need to Be Resolved*, GAO-18-321, June 5, 2018. <https://www.gao.gov/products/GAO-18-321>

³ United States Air Force Technical Manual 00-35D-54, “USAF Deficiency Reporting, Investigation, and Resolution,” September 1, 2015.

⁴ Department of Defense Instruction 5000.02, “Operation of the Defense Acquisition System,” August 10, 2017.

aircraft and for the taxpayers footing the bill. We appreciate your consideration of our concerns and welcome an opportunity to meet with you or your staff to discuss these matters further.

Sincerely,

A handwritten signature in blue ink that reads "Danielle Brian". The signature is written in a cursive, flowing style.

Danielle Brian
Executive Director