

William J. Lynn III

January 28, 2009

The Honorable John McCain
Ranking Member
Committee on Armed Services
United States Senate
Washington, D.C. 20510-6050

Dear Senator McCain:

Thank you for your letter dated January 26, 2009 regarding my ethics obligations and restrictions if I am confirmed to be the Deputy Secretary of Defense.

I intend to comply fully with the laws and regulations that govern Federal service, including the Federal Standards of Ethical Conduct for Employees of the Executive Branch ("Standards of Conduct") and the provisions of my ethics agreement, which I provided to the Senate Armed Services Committee. This will result in three general restrictions on my actions.

First, until I divest my financial interests in my current employer, Raytheon, I am prohibited from participating in matters that could affect the company pursuant to 18 U.S.C. Section 208. I will not seek any waivers from this statutory recusal. In my ethics agreement I agreed to divest my Raytheon holdings within 90 days of my appointment. I anticipate, however, that this divestiture will be completed much sooner than that.

Second, once such divestiture occurs, I will be subject to Section 502 of the Standards of Conduct for one year after my appointment. This provision requires me to receive a written authorization from the Department of Defense General Counsel before I am permitted to participate in any particular matter in which Raytheon is a specific party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question my impartiality. To ensure that I do not inappropriately participate in matters affecting Raytheon, the DoD General Counsel will establish a screening arrangement in the Deputy Secretary's office that will allow a thorough review of these matters. This screening process will be modeled on the one established for Secretary Donald Winter when he became Secretary of the Navy in 2006 after leaving a major defense contractor. The Section 502 process would not lead to a blanket authorization. Instead, each Section 502 authorization must be made independently by the DoD General Counsel based on a careful review of the facts and circumstances in each case. Accordingly, it is not possible to catalog the specific matters from which I will be recused in my first year of Government service.

Third, I participate in the Raytheon defined benefit plan, which will pay me a pension beginning in 2019. Accordingly, at the Committee's request, I committed in my ethics agreement that "prior to acting in any particular matter that is likely to have a direct, predictable, and substantial effect on the financial interest of Raytheon," I will consult with the DoD General Counsel and will not act in that matter unless he authorizes me to do so. This is the same process that has been in place since 2005 for all Defense Department appointees with defined benefit plans.

Finally, you have asked how this disqualification and authorization process under Section 502 differs from those in the new Executive Order. I was exempted from two pledge requirements in the Executive Order. The first requirement would have extended restrictions on my participation in particular matters involving Raytheon to two years. The second requirement regarding lobbyists entering government would likely have prevented me from serving in the Defense Department for two years from the date of my last regulated activity under the Lobbying Disclosure Act in early 2008.

I would add that I have not been exempted from the other Executive Order pledge requirements, including the ones that restrict appointees leaving government from communicating with their former executive agency for two years and that bar them from lobbying covered executive branch officials for the remainder of the Administration. Nor does the waiver affect my obligations under current ethics laws and regulations, including Section 502. If confirmed, I pledge to abide by the foregoing provisions.

I appreciate this opportunity to clarify how, if confirmed, I intend to carry out the important responsibilities of the office of Deputy Secretary of Defense. I look forward to discussing this and any other matters regarding my nomination.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Lynn III', with a long horizontal flourish extending to the right.

William J. Lynn III

Copy to:

The Honorable Carl Levin
Chairman