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United States Senate
COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510-6050

September 11, 2007

VIA HAND-DELIVERY ONLY

The Honorable Claude M. Kicklighter
Inspector General
Department of Defense
400 Army Navy Drive, Suite 1000
Arlington, VA 22202-4704

Dear Inspector Kicklighter:

On July 20, 2007, Senator Kennedy, Senator Carper and I sent the Secretary of Defense a letter raising concerns about possibly improper communications between the Air Force and a defense contractor on a multibillion dollar “unsolicited proposal” to procure up to 30 C-17 Globemaster aircraft. Those concerns arose from the contractor’s announcement, during this year’s Paris Air Show, that it directed its suppliers to resume work on providing spare parts for 10 new C-17s beyond the number currently on order. In explaining why it did so, the contractor cited not only “increased bipartisan congressional support” but also (more notably) “increasing signs that the U.S. Air Force has requirements for 30 additional C-17s.”

The problem here is that, according to the most authoritative and reliable analysis, there are no “increasing signs that the U.S. Air Force has requirements for 30 additional C-17s.” So, why the contractor chose to undertake the business risk associated with its decision and whether the Air Force may have wrongfully induced or encouraged the contractor to do so are in question.

As I noted in the July 20, 2007, letter, the unsolicited C-17 procurement proposal is unsupported by a validated requirement, not reflected in the President’s budget, and is in fact contrary to the current program of record. In fact, over the last two defense budget requests, the Department included a total of about \$500 million to shut down the C-17 production line (and preserve its key components and processes).¹ And yet, from the information I have received, the Air Force appears to be facilitating what can be expected to be, by definition, a huge earmark—a procurement of as many as 30 additional C-17 aircraft, at a possible cost to the taxpayer of at least \$250 million each.

¹This year, consistent with the President’s budget request, the Committee authorized about \$250 million to close the C-17 production line.

More than a month after the due date originally called for, on August 29, 2007, I received a notably unhelpful response from the Secretary of the Air Force.² It conveyed little else than the fact that the Air Force Secretary was personally “[un]aware of [any] commitments that the Air Force or the Department has made to the prime contractor regarding future C-17 production” and failed to provide the information or documents specifically requested in the July 20, 2007, letter.

Coupled with the information included in the July 20, 2007, letter, newly discovered information (a description of which follows) indicates that a formal inquiry into this matter is warranted. Accordingly, with this letter, I respectfully request that you initiate an investigation to obtain answers to those questions that the Department has either been unwilling or unable to provide me on the procurement of additional C-17s not included in the FY08 Presidential Budget Request, unsupported by a validated requirement, and contrary to the current program of record.

On April 27, 2007 and May 2, 2007, senior Air Force officials provided Committee staff with information on a plan to replace 30 C-5 cargo aircraft with C-17 variants—an approach called the “30/30 Plan”.³ That information was originally given to House Armed Services Committee staff in a briefing entitled “Cost-Effectively Meeting Strategic Lift Requirements: The 30/30 Story—Enabling the ‘Global’ in ‘Global Vigilance, Reach and Power!’” On July 23, 2007, the Air Force followed-up those presentations with another briefing to Committee staff on the C-5 Reliability Enhancement and Re-Engineering (RERP) Program. At that time, an Air Force official provided Committee staff with a slide entitled “Boeing C-17 Unsolicited Proposal Highlights”, a copy of which is also attached to this letter. In that slide, the first bullet point indicates that “[n]o later than 1 June 2007, Boeing requires the following: AF gives ‘firm indication’ to Congress in favor of multi-year procurement of 30 C-17s.” The slide also indicates that there may be a “[m]odification of current procurement contracts to accommodate immediate production slowdown to 12 C-17s per year”, ostensibly to facilitate the follow-on procurement.

During a subsequent meeting with Special Assistant to the Air Force Secretary for Acquisition, Governance and Transparency Kenneth E. Miller, on July 25, 2007, staff specifically inquired about the slide’s reference to a requirement by the contractor for a “firm indication”. Mr. Miller indicated that it described a contemporaneous request by the contractor “to have the Air Force work the procurement into the ‘08 or ‘09 POM [program objective memorandum]”. This is very troubling. As you of course know, each service uses the POM to list objectives for their forces, weapon systems, and logistical support within the fiscal limits set

²The letter is actually dated August 22, 2007, but I received it on August 29, 2007.

³A listing of all the Air Force general officers and SES officials who presented aspects of the of the unsolicited proposal to Committee staff is attached to this letter. Where the proposal is unsupported by a validated requirement, not reflected in the President’s budget request and contrary to the current program of record, the Air Force’s level of effort to advocate this plan is notable.

by the Secretary of Defense in a manner consistent with the needs of the combatant commanders. It derives from the National Security Strategy and the Quadrennial Defense Review. As a key internal planning document, organically generated by the Department to help build up its budget request, the POM is not supposed to be influenced by, or otherwise reflect discussions with, industry.

Air Force officials have told Committee staff that they have no personal knowledge that the Air Force agreed to do as the contractor had requested. But, when asked, if there was no agreement, why was “Boeing’s require[ment]” reflected in slides supporting an Air Force briefing to Committee staff on the C-5 RERP Program, the Air Force had no response. Also, when asked why would the Air Force have had any discussions with a contractor about the future content of its POM, the Air Force responded, “because they’ll find out anyway.” Notably, Mr. Miller told staff that this briefing was not authorized by either the Office of the Secretary of the Air Force, Air Mobility Command or Transportation Command, as is normally required.⁴

The information described above gives rise to concern. I am troubled by the Air Force’s apparent disregard for proper acquisition policy, practice and procedure and seeming eagerness to further contractors’ interests. I am equally disturbed about how freely the Air Force seems to discuss building up its POM with industry, particularly with regard to a program that is unsupported by a validated requirement, not reflected in the President’s budget, and contrary to the program of record. In my view, this warrants a formal inquiry.

Accordingly, I respectfully ask that you look into the questions presented in the July 20, 2007, letter, including, but not limited to, the following:

1. Did the Air Force, or any other organization within the Department of Defense, in any way induce or encourage the C-17 prime contractor to assume the business risk of covering the costs of keeping long-lead time parts available—to ensure the continuity of the C-17 production line until new Air Force orders materialize? If so, were those actions in that regard appropriate?
2. Citing specific data and analysis, are there “increasing signs that the U.S. Air Force has requirements for 30 additional C-17s”, as the prime contractor publicly cited in a June 19, 2007, statement to the press explaining why it re-activated its long-lead suppliers to begin work on new aircraft parts beyond the 190 currently on order?
3. What communications, if any, did any official within the Air Force, or any other organization within the Department of Defense, have with the prime contractor

⁴During the July 25, 2007, meeting, Mr. Miller described a letter from the contractor that reflects its request for a “firm indication.” While staff was promised this document, and answers to all the questions it posed during this meeting, staff has received neither.

about “increasing signs that the U.S. Air Force has requirements for 30 additional C-17s” or about “an Air Force request for 30 more aircraft”? Were those communications appropriate?

4. What communications, if any, did any official within the Air Force, or any other organization within the Department of Defense, have with the C-17 prime contractor about possibly working a follow-on procurement of C-17 aircraft (for which there is no validated requirement and that has not been formally requested by the President or approved by Congress) into its POM? Were those communications appropriate?
5. Is the Department of Defense aware of the Air Force’s plan to procure additional C-17 aircraft (for which there is no validated requirement and that has not been formally requested by the President or approved by Congress) and its efforts on the Hill regarding that plan? Has it authorized or approved of either that plan or the those efforts?
6. What action, if any, should the Air Force, or any other organization within the Department of Defense, take to limit any potential government liability arising from the prime contractor's incurring costs on a procurement for which there is no validated requirement and that has not been formally requested by the Air Force or approved by Congress.

In summary, with this letter, I am requesting that you thoroughly look into the Air Force’s creation and aggressive advocacy of plans to procure additional C-17s not included in the FY08 Presidential Budget Request, unsupported by a validated requirement, and contrary to the current program of record. In my view, the timing of this plan (and its associated briefings) against the House and Senate Armed Services Committee markups of the National Defense Authorization Bill and the Paris Air Show (where the contractor announced its re-activating its suppliers for long-lead C-17 spare parts), as well as the overall level of effort dedicated to its presentation to congressional staff, call into question whether it was developed and promulgated in furtherance of the “firm indication” required by the prime contractor, described above. From the information currently available, the Air Force appears to be facilitating a possibly huge earmark—a procurement of as many as 30 additional C-17 aircraft, at a possible cost to the taxpayer of at least \$250 million each. If true, this would represent a regrettable demonstration of service parochialism and an undesirable use of Department of Defense resources.

Thank you in advance for your attention to this important matter. If you have any questions, your staff may contact Minority Investigative Counsel Pablo E. Carrillo, at (202) 224-6371.

Sincerely,

A handwritten signature in black ink that reads "John McCain". The signature is fluid and cursive, with the first name "John" written in a larger, more prominent script than the last name "McCain".

John McCain
Ranking Member

Attachments: Letter from U.S. Senators John McCain, Edward Kennedy and Thomas R. Carper to Secretary of Defense Robert Gates, dated July 20, 2007; Response Letter from Air Force Secretary Michael W. Wynne to U.S. Senator John McCain, dated August 22, 2007 (received on August 29, 2007); Selected Page, entitled "Boeing C-17 Unsolicited Proposal Highlights," Slide Supporting Briefing on C-5 Reliability Enhancement and Re-Engineering (RERP) Program, dated July 23, 2007; and List of Air Force Senior Officials Participating in Briefings on or Related to C-17 Unsolicited Proposals

United States Senate

WASHINGTON, DC 20510

July 20, 2007

VIA FACSIMILE ONLY

Dr. Robert M. Gates
Secretary
Department of Defense
The Pentagon 3E880
Washington, DC 20301-3010

Dear Secretary Gates:

The process through which the Department of Defense purchases major weapon systems is predicated on transparency and accountability. We write to you to express our concerns that the policies, practices, and procedures governing acquisition may have been violated recently in the C-17 Globemaster program, which cost taxpayers an average of \$278 million per aircraft.

With domestic and international orders for C-17s waning, in March 2007, the C-17's prime contractor directed its long-lead suppliers to stop work on parts for aircraft that were not already under contract. Prudently, over the last two defense budget requests, the Department included a total of about \$500 million to shut down the C-17 production line and preserve its key components and processes (i.e., conduct a "Smart Shut-Down").

On June 19, 2007, the prime contractor reportedly instructed its supplier base to resume work on providing the parts for 10 new C-17s, beyond the number already on order with the Air Force and, incidentally, its international customers. We find this development surprising. The government has taken no action, such as validating a requirement for additional C-17s, formally asking for additional funding for the same, or obtaining congressional approval of a follow-on procurement for more C-17s that would appear to merit such an action.

In a statement issued on June 19, 2007, the prime contractor cited "increased bipartisan congressional support" and, more notably, "increasing signs that the U.S. Air Force has requirements for 30 additional C-17s," for why it directed its suppliers to begin work on new aircraft parts beyond the 190 currently on order. Accordingly, the prime contractor reportedly told these suppliers that "[it] will commit [its] resources to provide long-lead funding for the C-17s to be delivered after mid-2009" and that "[t]his action will protect the option in the months ahead for the cost-effective acquisition of C-17s in FY '08."

We find this action troubling. As far as we know, the prime contractors' statements, as reported by the press, are inaccurate. The Air Force has informed us that it does not intend to request funding for additional C-17s in next year's budget. We are therefore disturbed by the possibility that the Air Force may have induced the prime contractor into assuming the business risk of covering the costs of keeping long-lead time parts available—ostensibly to ensure the

continuity of the C-17 production line until new Air Force orders materialize. Such inducement would be inappropriate, especially if it exposes taxpayers to liability in the event that Congress declines to purchase additional C-17 aircraft.

With this letter, we request complete disclosure of all communications, if any, that the Air Force or some other organization within the Department of Defense may have had with the prime contractor about "increasing signs that the U.S. Air Force has requirements for 30 additional C-17s" or about "an Air Force request for 30 more aircraft."

We also urge you to immediately take action to limit any potential liability arising from the prime contractor's incurring costs on a procurement that has not been formally requested by the Air Force or approved by Congress. In addition, we believe you should act quickly to clarify the Department's position on future purchases of C-17s in order to avoid further confusion.

Given the foregoing, we ask that you answer the following questions:

1. What is the Department's official position on the Air Force's apparent communications with the prime contractor regarding the possible procurement of C-17 aircraft, as reflected in the reports cited above?
2. What is the Department's official position on the purchase of additional C-17s?
3. Citing specific data and analysis, are there "increasing signs that the U.S. Air Force has requirements for 30 additional C-17s," as the prime contractor publicly cited? If so, please explain?
4. If there are "increasing signs that the U.S. Air Force has requirements for 30 additional C-17s," why has the Department not budgeted and programmed for them?
5. I understand that Air Force leadership may have provided Congress a briefing in support of a possible purchase of up to 30 additional C-17s that runs counter to the Air Force's program of record, is unsupported by a validated requirement, and is not reflected in a presidential budget request, the operative Future Years Defense Program, or the Air Force's Unfunded Priority List.
 - a. Do you think that such briefings, if they occurred, are appropriate? If so, why? Will the Air Force be directed that any follow-on purchase of these aircraft will be funded wholly from its budget? If not, why not?
 - b. At this time, what principles would guide you in determining what Air Force programs would have to be cut or scaled back in order for the Air Force to afford 10 to 30 additional C-17s not programmed for and not currently in the Program Objective Memorandum?

We appreciate your responding to us by Monday, July 30, 2007, with answers to these questions and, in particular, an indication of what actions you are taking in view of the concerns we have raised.

Thank you for your consideration of this important matter.

Sincerely,



Edward M. Kennedy
Chairman,
Subcommittee on
Seapower, Committee
on Armed Services

John McCain
Ranking Member,
Committee on
Armed Services

Tom Carper
Chairman,
Subcommittee on
Federal Financial Management,
Committee on Homeland Security
and Governmental Affairs



SECRETARY OF THE AIR FORCE
WASHINGTON



The Honorable John McCain
United States Senate
Washington, DC 20510

AUG 22 2007

Dear Senator McCain:

Thank you for your recent inquiry to the Secretary of Defense in which you expressed concerns about Air Force actions regarding future C-17 production. The Secretary asked me to reply directly to you.

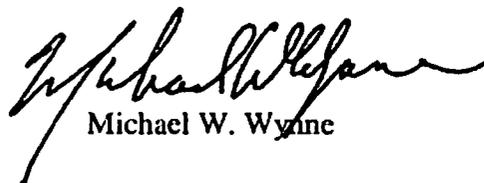
When discussing our nation's strategic airlift capability, the predicate to any examination of force mix is our ability to effectively manage our fleet. The Air Force would like to reiterate our standing plea for removal of retirement restrictions on our aging fleets. We need the flexibility to retire aircraft when fixing them is no longer a viable or cost-effective option.

Department-level studies have concluded that the programmed strategic airlift fleet, which includes 190 C-17s and 111 modernized C-5s, has sufficient capability to support the defense strategy and is reflected in the 2008 President's Budget. To address evolving airlift missions and requirements, OSD plans to conduct another mobility study beginning in spring 2008. Recently, Air Mobility Command has been reviewing the practicality of replacing a portion of the C-5 fleet with C-17s. This review is preliminary only and my staff has not reached any conclusions regarding its suitability or affordability. However, the established requirements, acquisition, and budget processes will be followed to ensure that our defense investment priorities are fully vetted with OSD and Congress.

I am aware of no commitments that the Air Force or the Department has made to the prime contractor regarding future C-17 production, in fact, the contractor has publicly stated that the decision to extend certain long-lead suppliers was entirely their own.

Thank you for your continued support. I have sent similar responses to Senators Kennedy and Carper.

Sincerely,



Michael W. Wynne



Boeing C-17 Unsolicited Proposal Highlights

- Produces 30 additional C-17s (220 C-17 fleet) at a rate of 12 per year
- \$242M unit price (same unit price as 15/year)
 - Boeing absorbs costs associated with lower production rates
- Assumes C-17 production slowed to 12 per year (from 15) by 1 June 2007
- No later than 1 June 2007, Boeing requires the following:
 - AF gives "firm indication" to Congress in favor of multi-year procurement of 30 C-17s
 - Modification of current procurement contracts to accommodate immediate production slowdown to 12 C-17s per year
- Cost impacts associated with the production line gap stemming from Boeing's March 2007 stop work notification to suppliers will be negotiated when known
 - Boeing protecting schedule by turning on long-lead suppliers as of June '07

Integrity - Service - Excellence

**List of Air Force Senior Officials Participating in Briefings on or Related to C-17
Unsolicited Procurement Proposal**

The following SASC meetings regarding C-17 Globemaster aircraft occurred in CY 2007.

April 16

Title: USTRANSCOM/AMC legislative proposals, including NATO C-17

Briefer(s): General Duncan J. McNabb, Commander, Air Mobility Command

April 27

Title: "Cost-Effectively Meeting Strategic Lift Requirements, The 30/30 Story, Enabling the Global in Global Vigilance, Reach and Power"

Briefer(s): LtGen Raymond E. Johns, Jr., Deputy Chief of Staff for Strategic Plans and Programs; Mr. Kenneth E. Miller, Senior Executive Service, Special Assistant for Acquisition Governance and Transparency to the Secretary of the Air Force

May 1

Title: USTRANSCOM hearing preps

Briefer(s): Gen Norton A. Schwartz, Commander, US Transportation Command

May 2

Title: "Cost-Effectively Meeting Strategic Lift Requirements, The 30/30 Story, Enabling the Global in Global Vigilance, Reach and Power"

Briefer(s): Gen Duncan McNabb, Commander, Air Mobility Command

July 23

Title: "C-5 Reliability Enhancement and Re-Engineering (RERP) Program" and "Boeing C-17 Unsolicited Proposal Highlights"

Briefer(s): Col Rockford Reiners, Chief, Program, Budget and Congressional Division, Directorate of Global Reach, SAF/AQQX

July 25

Title: "Boeing C-17 Unsolicited Proposal Highlights"

Briefer(s): Mr. Kenneth E. Miller, Senior Executive Service, Special Assistant for Acquisition Governance and Transparency to the Secretary of the Air Force