

Project On Government Oversight

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December 8, 2009

Dr. Ashton B. Carter
Under Secretary of Defense for Acquisition, Technology & Logistics
U.S. Department of Defense
1000 Defense Pentagon
Washington , DC 20301

Via Facsimile: (703) 693-7043

Dear Dr. Carter,

The Project On Government Oversight (POGO) would like to applaud you for your commitment to improving weapon systems acquisition at the Department of Defense. Consistent with this commitment, we urge you to write and enforce regulations outlined in the Weapons Systems Acquisition Reform Act to prohibit organizational conflicts of interest (OCIs) in systems engineering and technical assistance (SETA) contracts across the Department. As you stated in an interview with the Council on Foreign Relations, "we have allowed the pendulum to swing too far in the direction of believing that we could outsource to industry much of the program management functions, the systems engineering function."¹

Preventing these conflicts of interest is the first essential management step to improving procurement outcomes.

In July 2008, the Defense Science Board Task Force on Defense Industrial Structure for Transformation reported that as many prime contractors acquire systems engineering firms, there are more opportunities for the same firm to serve in both service and production roles of the same program. Contractors have long insisted that they have sufficient firewalls in place to ensure independence, but the Task Force soundly refuted this. When this conflict occurs, they wrote, "the result creates more classic OCIs, based on bias, impaired objectivity, and informal anomalies...not inherently resolvable through firewalls or similar mitigations."² Restoring the independence of this function, the Task Force wrote, would help the Pentagon "optimize" its capabilities.

¹ "A Conversation with Ashton B. Carter," October 5, 2009,
http://www.cfr.org/publication/20355/conversation_with_ashton_b_carter.html

² Defense Science Board Task Force on Defense Industrial Structure for Transformation, "Creating an Effective National Security Industrial Base for the 21st Century," July 2008, p. 24,
<http://www.acq.osd.mil/dsb/reports/2008-07-DIST.pdf>

The Federal Acquisition Regulations (FAR) already requires contracting officers to “avoid, neutralize, or mitigate significant potential conflicts before contract award.”³ Given this requirement, we think contracting officers should be instructed that awarding SETA and production contracts to the same firm constitute a significant potential conflict. The Department should also consider whether they need to institute a more proactive vetting process prior to contract award.

POGO could not agree with you more when you said that “we need to make sure the process by which we decide whether and what to buy is appropriately separated from the actual buy.”⁴ Independent analysis is key to ensuring that DoD decision makers are given unbiased, accurate information upon which to base program decisions. We urge you to give taxpayers an optimized procurement system and include and enforce the “Organizational Conflict of Interest” provision to preclude contractors from advising the Department of Defense on weapons systems and then developing them.

Sincerely,

A handwritten signature in black ink, reading "Danielle Brian". The signature is written in a cursive, flowing style.

Danielle Brian
Executive Director

³ FAR Subpart 9.504 (a)

⁴ Antonie Boessenkool, “Upcoming Conflict-Of-Interest Rules Already Shaping Policy,” *Defense News*, September 7, 2009.