

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