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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

May 20, 2022

VIA ELECTRONIC MAIL (kevin.p.meehan.mil@mail.mil)

The Honorable Lloyd J. Austin III
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Austin:

On April 26, 2022, the Senate Permanent Subcommittee on Investigations (“PSI”) held a hearing entitled *Mistreatment of Military Families in Privatized Housing* and released the attached staff report (the “PSI Military Housing Report”).¹

Key Findings from PSI’s Investigative Inquiry and the April 26th Hearing

The April 26th PSI hearing focused on the recent conduct of Balfour Beatty Communities, LLC (“Balfour”) — one of the nation’s largest privatized military housing companies. In December 2021, Balfour pled guilty to major fraud in its military housing operations from 2013 to 2019 and was ordered to pay over \$65 million in fines and restitutions.²

As part of its guilty plea, Balfour admitted that its managers and employees “altered or manipulated data” in its Yardi internal work order tracking system in order “to fraudulently induce the service branches to pay Performance Incentive Fees which [Balfour] had not earned and to which [it] was not entitled.”³ Balfour also admitted that “widespread failures at the regional and [Balfour] corporate and executive levels contributed to its provision of false information to the service branches.” For example, Balfour’s former Chief Operating Officer “contributed to pressure to qualify for and collect Performance Incentive Fees” and ignored “warning signs” of misconduct.⁴ Indeed, as Deputy Attorney General Lisa Monaco noted in announcing the guilty plea, the “pervasive fraud was a consequence of [Balfour’s] broken corporate culture, which valued profit over the welfare of servicemembers.”⁵

¹ “Mistreatment of Military Families in Privatized Housing,” U.S. Senate Permanent Subcommittee on Investigations, Homeland Security and Governmental Affairs Committee (April 26, 2022) (available at: <https://www.hsgac.senate.gov/imo/media/doc/2022-04-26%20PSI%20Staff%20Report%20-%20Mistreatment%20of%20Military%20Families%20in%20Privatized%20Housing.pdf>).

² See U.S. Department of Justice: Justice Department Announces Global Resolution of Criminal and Civil Investigations with Privatized Military Housing Contractor for Defrauding U.S. Military (Dec. 22, 2021) (available at: <https://www.justice.gov/opa/pr/justice-department-announces-global-resolution-criminal-and-civil-investigations-privatized>).

³ Statement of Facts ¶ 21, *U.S. v. Balfour Beatty Communities, LLC*, 1:21-CR-742-EGS (D.D.C.), Dkt. 5-1.

⁴ *Id.* ¶¶ 44, 48.

⁵ *Supra* note 2.

While Balfour’s guilty plea related to its conduct from 2013 to 2019, PSI’s inquiry revealed that Balfour continued to mistreat military service members and their families living in on-base housing after 2019 — specifically, at Fort Gordon in Georgia and the Sheppard Air Force Base in Texas (“Sheppard AFB”). For example, Balfour repeatedly delayed or failed to respond to military families’ complaints about roof leaks and environmental hazards like mold in their homes, which jeopardized their health and safety.⁶

PSI’s inquiry also uncovered serious concerns about the integrity of Balfour’s work order data in Yardi. This inaccurate and incomplete data may have affected the incentive payments Balfour receives from the military service branches. Specifically, PSI found that Balfour repeatedly misclassified in Yardi mold repair requests submitted by service members and their families as, instead, pertaining to other conditions like “painting” and “carpentry.”⁷ PSI also identified instances where Balfour appears to have omitted or not entered complaints and requests about problems like mold into Yardi.⁸ Further, information provided to the Subcommittee by former Balfour employees suggests that the issue of incomplete and inaccurate work order data may be far more widespread at Fort Gordon than the specific examples identified by PSI’s inquiry.⁹

In addition, according to the testimony of the Armed Forces Housing Advocates (“AFHA”) at the April 26th PSI hearing, inaccurate and incomplete Yardi data is an issue at numerous military installations where Balfour operates on-base housing. Specifically, the AFHA witness described how Balfour “often tells [military] families not to put initial work orders into [Yardi] and insist that maintenance will handle them separately” at military bases like Fort Bliss in Texas, Fort Stewart in Georgia, Fort Leonard Wood and Whiteman Air Force Base in Missouri and Warren Air Force Base in Wyoming.¹⁰

Finally, the Balfour executives who appeared at the April 26th hearing could not satisfactorily explain why these types of housing issues persisted even after the company pled guilty or adequately reassure us that Balfour is willing or able to rectify its failures.

Questions for the Department of Defense (“DOD”)

We are aware that Assistant Secretary of the Army for Installations, Energy and Environment, Rachel Jacobson, recently testified before the House Appropriations Committee that the Army has initiated several actions in response to PSI’s hearing and report.¹¹ These

⁶ See PSI Military Housing Report at 18-33.

⁷ See *id.* at 35-42.

⁸ See *id.*

⁹ See *e.g., id.* at 35-36 (summarizing a former employee’s description of how Balfour’s facility managers at Fort Gordon frequently told maintenance staff to advise military families to contact them directly, instead of submitting repair requests online; yet, Balfour often would not log the verbal repair requests into Yardi as work orders when military families followed that advice).

¹⁰ Testimony of Rachel Christian, Chief Legislative Officer, AFHA at 2 (available at: <https://www.hsgac.senate.gov/imo/media/doc/Christian%20Testimony1.pdf>).

¹¹ Testimony of Rachel Jacobson, Assistant Secretary of the Army for Installations, Energy and Environment at hearing titled: “*Army Installations and Quality of Life*,” US. House Subcommittee on Military Construction,

include an investigation of Balfour Beatty's performance at Fort Gordon by the Commanding General of the Army Material Command, an audit of Balfour's property management records at Fort Gordon, and immediate suspension on incentive fees for Balfour at Fort Gordon. Further, Assistant Secretary Jacobson testified that the Army's General Counsel initiated a legal review of possible enforcement options, including to assess when the Army can amend contracts with privatized housing operators and whether the Army needs greater legislative authority to hold such operators accountable.¹²

However, we are concerned that the steps summarized above are not sufficient. Balfour pled guilty to fraud against all three military service branches — the Air Force and the Navy as well as the Army. Further, the information uncovered by PSI's inquiry and at the April 26th hearing suggests that Balfour has continued to mistreat military families and to record inaccurate and incomplete work order data in its internal Yardi system at non-Army installations. To ensure the welfare of our military service members and their families, and to protect the taxpayers from potential fraud, we request that DOD provide answers to the following questions:

1. Will the Air Force and the Navy follow the Army's lead and initiate legal reviews regarding the services' authority to amend or structure their contracts with privatized military housing operators like Balfour and whether additional authority is needed to hold these privatized military housing companies accountable?
2. Are there additional legal authorities or resources that you believe DOD and/or the three service branches need to improve oversight of privatized military housing companies? If so, please specify what authorities or resources you believe are needed.
3. Does DOD currently have access to all original repair requests submitted by military service members and their families to privatized military housing operators and not just access to what these companies decided to include in their internal databases? If not, what authority or steps are needed to ensure that DOD has such access which may help to reveal a more robust picture of concerns of military service members regarding their housing?

Veteran Affairs, and Related Agencies, Committee on Appropriations (May 12, 2022) (available at: <https://appropriations.house.gov/events/hearings/army-installations-and-quality-of-life>).

¹² Testimony of Rachel Jacobson, Assistant Secretary of the Army for Installations, Energy and Environment at hearing titled: "*Army Installations and Quality of Life*," US. House Subcommittee on Military Construction, Veteran Affairs, and Related Agencies, Committee on Appropriations (May 12, 2022) (available at: <https://appropriations.house.gov/events/hearings/army-installations-and-quality-of-life>). Previously, DOD had advised the Government Accountability Office that it cannot "mandate changes to existing ... legal agreements." *Military Housing: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing*, GAO-20-281 (Mar. 26, 2020) (available at: <https://www.gao.gov/assets/gao-20-281.pdf>).

Hon. Lloyd J. Austin III

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Please feel free to have your staff reach out to either Douglas Pasternak, Majority Staff Director, at (202) 224-1548 or Doug_Pasternak@hsgac.senate.gov, or Brian Downey, Minority Staff Director, at (202) 224-5571 or Brian_Downey@hsgac.senate.gov.

Thank you for your attention to this important matter.

Sincerely,



Jon Ossoff
Chairman

Permanent Subcommittee on Investigations



Ron Johnson
Ranking Member

Permanent Subcommittee on Investigations

Enclosure

cc: Senator Jack Reed, Chairman, Senate Armed Services Committee
Senator James Inhofe, Ranking Member, Senate Armed Services Committee