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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

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October 16, 2009

The Honorable Robert M. Gates
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Mr. Secretary:

I am writing to renew my request for information and documents related to the Defense Department's award of contracts for Congressional earmarks.

On March 16, 2009, I wrote to you asking for information on number, value, recipient, and the type and extent of competition for each contract or grant awarded for a Congressional earmark. I also asked you for all communications related to the award of contracts or grants to the recipients identified by the requesting member of Congress. I requested that this information be produced no later than April 6, 2009.¹

On March 27, 2009, Subcommittee staff spoke with Defense Department officials regarding the scope and timing of the Department's response to the Subcommittee's request. At that time, Department officials agreed to provide the information on a rolling basis, beginning with an initial production of information that would provide the number, value, and recipient of contracts awarded for earmarks in fiscal year 2008. At the request of Subcommittee staff, Defense Department officials also agreed to provide a schedule for the production of the remaining information and documents requested by the Subcommittee.

On April 6, 2009, the Defense Department produced four binders containing paper documents with information about the value and recipient of awards for Congressional earmarks. This production did not contain the contract numbers, nor did it contain information relating to competition. It also was not provided electronically, as requested by the Subcommittee.²

Subcommittee staff have made repeated attempts to follow-up with Defense Department officials regarding the status of the Department's efforts to comply with the Subcommittee's request. Since April, Subcommittee staff have inquired over ten times and met twice with Defense Department officials about the status of the earmark request. In response, Defense Department officials have made repeated assurances that information and documents responsive to the Subcommittee's request will be arriving shortly.

¹ Letter from Senator Claire McCaskill to Secretary of Defense Robert M. Gates (March 16, 2009).

² Letter from Under Secretary of Defense, Comptroller, and Chief Financial Officer Robert F. Hale to Chairman McCaskill (April 6, 2009).

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Since April 6 – over six months ago – the Defense Department has provided information about number, value, recipient, and the type and extent of competition for fewer than 200 contracts. The Department has failed to produce any communications related to the award of grants or contracts to the recipients identified by the requesting member of Congress. In addition, Defense Department officials have declined to provide a schedule for when the Subcommittee will receive additional information and documents.

I understand that there are numerous demands on the officials responsible for gathering and producing information and documents to the Subcommittee, but the Department's response to date is unacceptable. Moreover, this continued delay is frustrating the Subcommittee's ongoing investigation.

As a result, I request that you provide the Subcommittee with a commitment in writing by the close of business on **October 23, 2009**, addressing the issue of document production. This commitment should specify that all information and documents responsive to the Subcommittee's request of March 16 will be provided to the Subcommittee as soon as possible, but in no case later than **November 20, 2009**. This commitment should also include a complete account of the steps taken by the Department thus far to locate, collect, and review documents (including communications) responsive to the Subcommittee's requests.

The jurisdiction of the Subcommittee on Contracting Oversight is set forth in Senate Rule XXV clause 1(k); Senate Resolution 445 section 101 (108th Congress); and Senate Resolution 50 (109th Congress).

Please contact me or ask your staff to contact Margaret Daum at (202) 224-8316 with any questions regarding this request.

Sincerely,



Claire McCaskill
Chairman
Subcommittee on Contracting Oversight

cc: Robert Bennett
Ranking Member
Subcommittee on Contracting Oversight