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The Honorable Donald Norcross  
Ranking Member, HASC Subcommittee on Tactical Air and Land Forces  
2216 Rayburn House Office Building  
Washington, D.C. 20515

Subj: GAO Assessment of Reported F-35 Block 4 Modernization Expected Costs

Please increase the scope of the GAO assessment that was requested in my letter dated August 8, Subj: "F-35 C2D2 Oversight Issues Omitted from House Version of NDAA Sec. 219." The objective of the additional scope is to determine if Lockheed Martin (LM) has been reporting F-35 Block 4 Modernization expected costs that are accurate, reliable, and "most likely."

### **Justifications for the Assessment (2020 and 2017)**

Per GAO-23-106694 Testimony Before the Subcommittee on Tactical Air and Land Forces, HASC:

"Our ongoing work also continues to identify that the program does not provide a holistic Block 4 cost estimate, inclusive of all years incurred and *expected costs*... in its annual Block 4 reports to Congress."

This finding, in 2023, is "*déjà vu*" to a similar GAO finding in 2020 and to a US Court of Appeals conclusion in 2017. Both assessments, regarding the Estimate at Completion (EAC) were cited in the attached letter to (then) Chair Smith, Subj: Request for Supplemental GAO Investigation, F-35 Modernization, dated May 12, 2020. Excerpts from that letter follow:

#### **EAC**

GAO reported that the F-35's Block 4 development cost estimate did not meet the GAO Leading Practice that "The cost estimate results are unbiased, not overly conservative or optimistic and based on an assessment of *most likely* costs." Per GAO, "Congress is left without a complete picture of what DOD intends to spend on the total Block 4 effort."

Lockheed Martin's failure to report a *most likely* EAC was first disclosed in my whistleblower lawsuit against LM and Northrop Grumman in 2012. Per Northrop Grumman's reply in support of its motion for summary judgement, "There was public disclosure that defendants' EAC3 projections were not based on "Most Likely" estimates. On 12/19/2017, the US Court of Appeals concluded that "the DCMA and GAO reports allege facts that make a potentially fraudulent scheme

readily identifiable: LMC and its subcontractors were violating contracting regulations by using their management reserve budgets to compensate for over-budget expenditures that would have otherwise raised their...EAC reported to the government.”

### **Justifications for the Assessment: *Déjà vu* to Reporting of Block 3i EAC in 2016**

GAO’s finding in 2023 is also similar to the lack of situational awareness of the program’s cost, schedule, and technical performance in 2016, as described in my email to Sen. McCain. Excerpts follow:

Sent: Sunday, August 28, 2016

Subject: Update on Lockheed Martin F-35 Software Development plus DCMA Findings on Earned Value and Technical Performance

Last April, I cited a GAO report (in email below) that software development continues to be behind schedule and poses risks to achieving Initial Operating Capability (IOC) of the Air Force (AF) version in August 2016. The April email asked, “Does LM’s earned value reporting now disclose the behind schedule condition to achieve Block 3i functionality requirements and the *increasing cost overruns* to Block 3i for the on-going rework?”

So, the April (2016) question is still relevant: Does LM’s earned value reporting now disclose the behind schedule condition to achieve Block 3i functionality requirements and the increasing cost overruns to Block 3i for the on-going rework?

Gilmore reported that, “In fact the program is actually not on a path toward success but instead on a path toward failing to deliver” the aircraft’s full capabilities, “for which the Department is paying almost \$400 billion by the scheduled end” of its development in **2018**.

So, today’s earned value questions are:

1. Does LM’s earned value reporting now disclose the behind schedule condition to achieve Block 3i functionality requirements and the increasing cost overruns to Block 3i for the on-going rework?
2. Do LM’s and subcontractor Northrop Grumman’s earned value reports and Contract Performance Reports disclose that the “program is actually not on a path toward success but instead on a path toward failing to deliver?”
3. Are all program risks and risk mitigation plans identified, quantified and included in the program EAC and schedule?

Recommendation:

It is recommended that the DCMA Earned Value Management System surveillance monitors at LM and Northrop Grumman verify that the earned value in their respective contract

performance reports accurately reflects technical performance, a realistic completion date for Block 3F, and a realistic EAC.

Please take action to correct the course of this program and to ensure accurate, reliable reporting of cost, schedule, and technical performance. The recommendations from 2016 are still valid except that GAO should now get involved. Please request GAO to determine:

- if LM has been reporting F-35 Block 4 Modernization expected costs that are accurate, reliable, and “most likely.”
- Do DCMA surveillance monitors at LM and Northrop Grumman verify that the earned value in their respective contract performance reports accurately reflects technical performance, a realistic completion date for Block 4, and a realistic EAC.

Yours truly,



Paul J. Solomon

CC:

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Hon. Heidi Shyu, (USD(R&E))

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