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Mr. Elon Musk
Department of Government Efficiency (DOGE)

Subj: F-35 Idiots are the Taxpayers, not the Builders, Rev. 1

Dear Mr. Musk:

Revision: This supersedes the letter dated 11/28. It now includes my reference to Chairman Henry Waxman's Clean Contracting Act of 2007 which would prevent unjustified award fees (in added Speir letter, 8/19/21).

You got it wrong in your F-35 post:



Meanwhile, some idiots are still building manned fighter jets like the F-35 🤔 😊

The idiots are not the F-35 builders; the taxpayers are. The contractors are smart enough to grab profits while building and selling a weapon system that fails to perform.

Contractors have statutory and regulatory green lights to profit from cost plus contracts without delivering needed capabilities. It is a corrupt system. My recommendations to fix it have been ignored by legislators and DoD officials since 2007. Please get your DOGE team to change the rules and the related regulation for project management. This regulation favors the traditional defense suppliers and is a barrier to entry to smaller, more innovative players.

Here are excerpts from a sample of my letters that cite the F-35 and other programs:

Waxman letter, June 22, 2007, Subject: Award Fees and Contract Oversight

National Defense Industrial Association (NDIA) admits that some contractors have misused award fee incentives and have not reported objective program status in order to win high award fees.

Waxman letter, March 10, 2008, Subject: Award Fees, Contract Oversight and Lockheed Martin

I have evidence that Lockheed Martin (LM) has "managed data" in order to "make the number" on the F-35 program.... LM submitted monthly earned value management (EVM)m reports which are the basis of semi-annual award fee (profit) claims...misstated cost and schedule performance...LM received unjustified award fees and also understated the final program costs, thereby avoiding Nunn-McCurdy scrutiny.

McCain letter, 10/25/11, Cost Controls on the F-35 and Need for Acquisition Reform of EVM

The acquisition regulations and process enable contractors to submit invalid, misleading information to the Government on all capital asset acquisitions, not just weapon systems.

McCain letter, 1/4/18, [Fraud on the F-35 Program and Need for Acquisition Reform](#)

federal appeals court..opinion..killed my...whistleblower suit regarding the F-35 program. Per my complaint, “This is a case of fraud by two major defense contractors, who wrongfully obtained lucrative defense contracts and contract payments by submitting grossly understated cost estimates and using improper accounting to conceal their cost overruns, resulting in a loss to the United States government in the hundreds of millions of dollars. Defendants LM and Northrop Grumman (NG)...conspired to defraud the government in at least three ways.

Third, by covering up their cost overruns, presenting a misleadingly rosy picture of their performance on measures of cost control, and setting performance goals which they knew all along they would not be able to meet, LM and NG were able to secure larger profits in the form of higher performance-based Award Fees than were warranted based on their actual contract performance.

[Letter to HASC Chairman Adam Smith, Subj: Repeated Request for GAO Assessment of F-35 Block 4 Modernization Incentive/Award Fees, 7/14/21](#)

...award or incentive fees were being paid on such contracts based on subjective assessments of technical performance and not on real achievements and pre-determined objective criteria.

[Letter to HASC Rep. Jackie Speir, Subj: Request to Amend NDAA for FY 2022 or Billion Dollar Boondoggle Act, 8/19/21](#)

...provisions of Boondoggle Act were originally introduced by Rep. Henry Waxman in the Clean Contracting Act of 2007

...Please consider amending Boondoggle Act to restore the omission, as follows.

TITLE V—PREVENTING UNJUSTIFIED AWARD FEES

SEC. 501. ENCOURAGING EXCELLENT CONTRACT PERFORMANCE.

(a) LIMITATION.—For any cost-based contract entered into by the Federal Government that includes an award or incentive fee—

(2) at a minimum, the following factors shall be considered in making a determination regarding whether, and in what amount, the fee shall be paid to the contractor:

(A) Whether the contractor met cost goals.

(B) Whether the contractor met schedule goals.

(C) Whether the contractor met performance goals and delivered the goods or services required to be provided under the contract.

[Letter to DoD IG Assistant Inspector General for Audit Carol N. Gorman, Subj: Supplement to Previous Letter Cites Today’s GAO Finding on Minimum Viable Product, June 8, 2023](#)

the lack of disincentives or financial penalties provide no deterrence to contractors from continuing to receive undeserved award fees. Without more contractual definition and oversight, contractors are enabled to earn the Maximum Viable Profit despite delivering a subjectively defined and downwardly revised Minimum Viable Product.

Letter to Sen. Elizabeth Warren: Failures of Sentinel, F-35, and Digital Engineering, dated 6/28/24

My plan addresses problems defined in acquisition reform letters since 2007. ...Consequently, LM received unjustified award fees and...understated the final program costs, thereby avoiding Nunn-McCurdy scrutiny.

Letter to USD(A&S) William LaPlante, Subj: Remedy for Toxic Mix of Earned Value Management, Agile Methods, and Award Fees, dated 8/10/24

...utilization of Agile Methods has provided contractors with increased opportunities and incentives to submit unreliable information, “make the number,” and receive undeserved award fees. The status quo is a toxic triad of EIA-748, Agile methods, and subjective award fees. In concert, they enable, not deter, fraud, waste, and abuse.

This augments my letter dated Nov. 12, Subj: Recommendations to Drive Out Waste and Fraud at DOD.

Respectfully,



Paul Solomon

Cc: Anthony Capaccio, Bloomberg News