



One Hundred Tenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

December 17, 2007

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Chertoff:

The House Homeland Security Committee is currently conducting a review of the Department of Homeland Security's use of Other Transaction ("OT") authority. As you are aware, Section 831 of the Homeland Security Act of 2002 authorizes OT authority for a five year period, to end on January 25, 2008. This letter requests additional information about the Department's use of this authority.

The Department has entered into thirty-two other transactions at a total cost of \$381.1 million. However, almost half of this money was allocated in one project – the OT contracts with BAE Systems and Northrop Grumman Corporation for the Countermeasures for Man-Portable Air Defense System ("Counter-MANPADS") program in February 2004. The Counter-MANPADS program will determine if it is possible and affordable to design systems to protect airliners from heat-seeking missiles. The contracts that the Department negotiated for this project account for forty-eight percent (\$181.8 million) of the total money spent on OT contracts.

Please provide answers to the following questions about the Department's decision to approve BAE Systems and Northrop Grumman for OT contracts:

- Who approved the use of OT authority for Counter-MANPADS? Was an acquisition strategy (including expected benefits and a rationale for the use of OT authority) developed for the Counter-MANPADS OT?
- If an OT contracting officer (OTCO) was involved in this use of OT authority, did she obtain a review by legal counsel? Which head of contracting activity (HCA) approved the OT?
- What competitive procedures were used prior to entering into the OTs for Counter-MANPADS?

- Have annual reports been submitted to the Director, Acquisition Policy and Oversight, regarding Counter-MANPADS?
- As a result of the use of OT authority, has the Department acquired Counter-MANPADS? If so, what type of instrument was used to acquire Counter-MANPADS?
- Did the OTCOs for the BAE Systems and Northrop Grumman OTs include a provision in each agreement authorizing the Government Accountability Office (GAO) access to records in certain circumstances?
- What were the anticipated cost savings, schedule savings, or improvement in performance associated with the Northrop Grumman and BAE Systems OTs?
- What were the actual costs or schedule savings, or improvements in performance? How does the actual result compare with what would have been expected if a contract were awarded pursuant to the Federal Acquisition Regulation (FAR)?

Please provide answers to these questions by not later than January 8, 2008. If you have any questions, please contact Jacob Olcott, Subcommittee Director and Counsel, Committee on Homeland Security at (202) 226-2616.

Sincerely,

A handwritten signature in black ink, reading "Bennie G. Thompson". The signature is written in a cursive style with a large, stylized initial "B".

Bennie G. Thompson
Chairman