

Congress of the United States
House of Representatives

Washington, DC 20515-3222

December 20, 2011

The Honorable Frank Kendall
Acting Under Secretary of Defense
For Acquisition, Technology, and Logistics
The Pentagon
Washington, D.C. 20301

Dear Secretary Kendall:

As you are aware, Section 8108 of the Fiscal Year 2011 Department of Defense Appropriations Act required that each of the Secretaries of the Army, Navy, Air Force, and the Directors of the Defense Agencies and Field Activities (Components) report, within 60 days of enactment, to the Congressional defense committee with a plan on documenting the number of full-time contractor employees, as directed by the inventory requirement codified in title 10 USC 2330a.

According to Section 321 of the Fiscal Year 2011 National Defense Authorization Act (10 USC 2330a), these inventories are required to be based on direct labor hours and associated cost data collected directly from contractors, an approach the Army has successfully used for nearly all of its services contracts for years, even before the requirement was established last year.

The Army's methodology has been proven to be more reliable than the current inventory practices used elsewhere in the Department and applying this methodology would allow the Department to better identify and control contract costs. Accurate contract inventories are essential to achieving the Department's efficiency objectives and reductions required by the Budget Control Act of 2011. The FY11 Defense appropriations bill explicitly directed the use of funds necessary to execute the Army's approved and established methodology across the Department. Despite the fact that the Department had indicated in communications to Congress that Components would provide individual inventory compliance plans to Congress no later than September 30, there was significant delay in sending those plans.

Furthermore, the memorandum written by Mr. Ginman, Director of Defense Procurement and Acquisition Policy, on October 11, 2011 surprisingly states:

No Military Department, Defense Agency or Field Activity is to modify existing contracts/task orders to require contractors to report FTEs, nor require such reporting in new contracts/task orders. The Army will continue its current process using Contractor Manpower Reporting Application (CMRA). The Department will issue public rule-making procedures to determine the appropriate path forward.

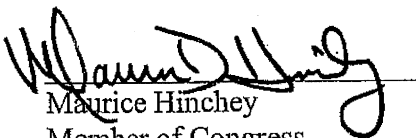
This appears in direct conflict with Section 8108 of the FY 2011 Defense Appropriations bill and Section 321 of the Fiscal Year 2011 National Defense Authorization Act (10 USC 2330a), both of which require the use of direct labor hours in developing contract inventories. As has been repeatedly recognized by our colleagues on the Armed Services committee, it seems clear that there is already a path forward in the Army's established processes that meets the letter of the law, as well as the spirit and intent of Congress.

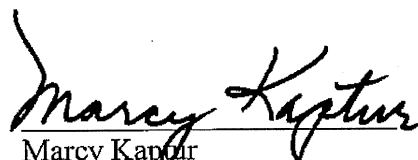
Given this information, we ask the following:


- Why did the Department repeatedly delay providing these plans to Congress?
- In light of statutory requirements set by Section 321 of the Fiscal Year 2011 National Defense Authorization Act, why does the Department feel it is necessary to further delay with the transition toward implementing the Army's CMRA inventory methodology, as directed in Mr. Ginman's memo?
- Please provide a budget exhibit pursuant to 10 USC 235 that separately accounts for all FY12 service contracts for all appropriations, for both base and OCO spending. Even though information related to research and development contracts are not included in this section of title 10, please include them in this instance.
- How does the department explain the over-execution in service contract spending in FY10? Although the budget estimate called for \$63 billion in spending on service contracts, we understand that the department reports that execution amounted to \$106 billion, while the inventory of service contracts would indicate that the department actually spent \$121 billion. How can the department impose and enforce any meaningful constraints on such spending, given the over-execution?
- Should DoD base spending on service contracts be limited to the amount included in the budget estimate? Should over-executed spending be targeted for savings or diverted for other, validated purposes?

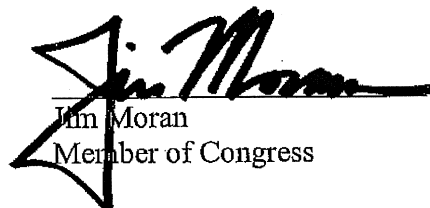
We respectfully request a prompt reply and look forward to working with you on these issues.

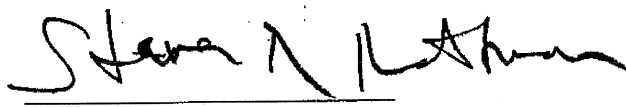
Sincerely,


Maurice Hinchey
Member of Congress


Marcy Kaptur
Member of Congress


Peter Visclosky
Member of Congress


Jim Moran
Member of Congress


Steve Rothman
Member of Congress