

June 10, 2003

The Honorable John Warner
Chairman, Senate Armed Services Committee
225 Russell Senate Office Building
Washington, DC 20510

The Honorable Carl Levin
Ranking Member, Senate Armed Services Committee
269 Russell Senate Office Building
Washington, DC 20510

The Honorable Ted Stevens
Chairman, Senate Appropriations Committee
522 Hart Senate Office Building
Washington, DC 20510

The Honorable Robert C. Byrd
Ranking Member, Senate Appropriations Committee
311 Hart Senate Office Building
Washington, DC 20510

The Honorable Daniel K. Inouye
Ranking Member, Senate Appropriations Subcommittee on Defense
722 Hart Senate Office Building
Washington, DC 20510

Dear Senators:

We are writing to express our concern over the recent Department of Defense approval to lease 100 Boeing 767 "tanker refueling" aircraft in a contract that could cost American taxpayers more than \$20 billion. As numerous independent assessments have confirmed, the proposed financing scheme appears to be a profligate waste of taxpayer dollars. In light of the fact that Boeing is currently under criminal and civil investigations by the United States Department of Justice for possible misconduct involving government contracts, such an apparent sweetheart deal seems particularly troublesome.

In our view, Congress should -- at a minimum -- delay the required additional authorization for this program until questions are resolved relating to this contract and Boeing's conduct on a range of issues.

By most estimates, including the General Accounting Office, the tanker-refueling leasing arrangement will cost taxpayers billions more than if the government simply

modernized existing KC-135E tankers. In fact, the Office of Management and Budget reports the current tanker fleet is in good shape, and the Air Force has said that there is no need to start replacing the KC-135Es before 2012. Even more troubling is the fact that this apparent sweetheart deal was awarded on a sole-source, non-competitive basis, reinforcing an increasingly widespread perception of, at best, excessive and unnecessary waste.

Such paydirt in the award of a sole-source contract for a system that the Air force apparently doesn't need, and to a company under criminal and civil investigations for misconduct, is not what our Defense Department should be doing at this time of heightened national security needs and constrained domestic budgets.

Indeed, Boeing's integrity in the context of government contracts has been the source of ever heightening criticism by many non-partisan sources. According to a January 30th, 2003 GAO report, a Boeing division was found in possession of proprietary documents of its competitor Raytheon. As the documents related to a missile defense contract for which both companies were in competition, Boeing's possession of them raised widespread suspicion of corporate espionage. This was particularly alarming as Boeing is the "lead system integrator" on the missile defense program, a quasi-governmental role which requires unquestioned ethical conduct because such integrators can easily gain illicit access to proprietary documents of competitors.

It is important to note that Boeing could be disbarred from all government contracts due to the criminal inquiry underway. According to a *Wall Street Journal* report, Boeing sought to gain competitive advantage over Lockheed Martin – its only rival for a \$1.88 billion defense contract to build rockets for launching spy and communications satellites – by obtaining key documents from a former Lockheed employee "under the table." These events have led to a criminal investigation.

At a minimum, Congress should defer the required additional authorization for the gold-plated tanker lease deal until two things occur: 1) a complete investigation is conducted as to whether such a lavish solution to in-flight refueling is needed, and 2) the Justice Department's criminal investigation of Boeing's questionable contracting practices is concluded.

These modest first steps will help reassure the public of a strong, bipartisan commitment to fight government waste and corporate fraud. It is also our hope that, in light of these facts, Congress and the administration will take the opportunity to give careful review to other multi-billion dollar commitments – such as the Army's Future Combat Systems (FCS) -- that puts Boeing back into the position of a "lead systems integrator" with authority to review the proprietary documents of competitors, and thereby invite repetition of past bad acts at the expense of taxpayer dollars and national security.

These kinds of awards to a company under criminal and civil investigations leads to a perception that the left hand of the government does not know what the right hand of

the government is doing. At a minimum, decisions on such matters should be put into abeyance pending the resolution of some of these fundamental questions.

Sincerely,

Taxpayers for Common Sense

Public Citizen

National Taxpayers Union

Council for Livable World

National Law and Policy Center

Project on Government
Oversight

Citizens Against Government Waste

cc. Members of the United States House of Representatives
Members of the United States Senate