

October 29, 2021

The Honorable Jack Reed
Chair, Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, D.C. 20510

The Honorable James Inhofe
Ranking Member, Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Adam Smith
Chair, House Committee on Armed Services
2216 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Mike Rogers
Ranking Member, House Committee on Armed Services
2117 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair Reed, Chair Smith, Ranking Member Inhofe, and Ranking Member Rogers:

On behalf of the undersigned taxpayer advocate and budget watchdog organizations, we write to express our concern with language in the Senate's version of the National Defense Authorization Act (NDAA) that could cause spending on a developing missile defense program to escalate and eventually spin out of control. With any government procurement, it is essential that competition play a critical part in the process. This is especially true for missile defense programs.

As you know, there is bipartisan support in your Committees for the Missile Defense Agency's (MDA) development of Next Generation Interceptors (NGI) within the nation's missile defense system. Some of us have expressed concerns with the failed missile defense efforts of the recent past, and remain skeptical of major new taxpayer commitments to these programs.¹ We also acknowledge that NGI *could* be a better bet for taxpayers than past efforts, but only if MDA learns from its previous failures and boondoggles.² One way to *not* learn from these failures would be to triple production of these new interceptors extremely early in the program's development, as proposed in the Senate version of NDAA.

Reporting indicates that tripling the production of NGI could cost taxpayers nearly \$5 billion.³ The House's NDAA language on NGI is a strong alternative to the Senate NDAA language, in that it calls on the Secretary of Defense to maintain competition through several review stages, and to uphold "fly before you buy" principles in the development of the program.⁴

Unfortunately, the Senate's version of NDAA could undermine the progress MDA is trying to make. And, in the process, the amendment could cut against commonsense federal contracting procedures that protect taxpayers from the wasteful spending that resulted from previous ill-advised missile defense ventures.

Sec. 1551 of the Senate's NDAA legislation would give MDA the authority to develop a plan to "replace the current inventory of silo-based boosters with follow-on systems prior to the end of their useful life cycle."⁵ Based on public reporting,⁶ we understand this request to mean that the Senate envisions a path to procuring 65 NGIs rather than the 21 currently envisioned by MDA.

While the Senate language conditions the development of such a plan on "reduc[ing] program risk," "maximiz[ing] reliability," and "promoting industrial base competition," among other items, our organizations nonetheless remain deeply concerned that the Senate language would allow for a plan

¹ See: Sepp, Pete. "Solutions to Skyrocketing Missile-Defense Costs May be Ahead." National Taxpayers Union, August 2, 2018. Retrieved from: <https://www.ntu.org/publications/detail/solutions-to-skyrocketing-missile-defense-costs-may-be-ahead>; Williams, David. "Pentagon Must Demand Competition in Missile Defense Procurement." Taxpayers Protection Alliance, November 23, 2020. Retrieved from: <https://www.protectingtaxpayers.org/defense/pentagon-must-demand-competition-in-missile-defense-procurement/>

² See: Russell, W. William. "Missile Defense: Observations on Ground-based Midcourse Defense Acquisition Challenges and Potential Contract Strategy Changes." Government Accountability Office, October 21, 2020. Retrieved from: <https://www.gao.gov/assets/gao-21-135r.pdf> (Accessed September 29, 2021.)

³ Sherman, Jason. "Senate panel directs MDA to draft plans to triple size of NGI fleet." *Inside Defense*, September 22, 2021. Retrieved from: <https://insidedefense.com/daily-news/senate-panel-directs-md-a-draft-plans-triple-size-ngi-fleet> (Accessed September 29, 2021)

⁴ Congress.gov. "H.R.4350 - National Defense Authorization Act for Fiscal Year 2022." Retrieved from: <https://www.congress.gov/bill/117th-congress/house-bill/4350/text> (Accessed September 29, 2021.)

⁵ Senate Committee on Armed Services. "A Bill to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes." Retrieved from: https://www.armed-services.senate.gov/imo/media/doc/FY22%20NDAA_full.pdf#page=742 (Accessed September 29, 2021.)

⁶ Sherman, Jason. "Senate panel directs MDA to draft plans to triple size of NGI fleet." *Inside Defense*, September 22, 2021. Retrieved from: <https://insidedefense.com/daily-news/senate-panel-directs-md-a-draft-plans-triple-size-ngi-fleet> (Accessed September 29, 2021.)

to significantly expand MDA's vision for NGI -- before the contractors competing on NGI have even completed what is called a preliminary design review (PDR). Again, reporting indicates that tripling the production of NGI now could cost taxpayers nearly \$5 billion.⁷

It is simply premature to ask MDA to develop a plan to triple NGI production, especially given the technology has yet to go through PDR or the more important and robust critical design review (CDR) phase.

While competition is not a cure-all for cost overruns or production delays in all stages of defense acquisition, these principles are often key to federal agencies obtaining the best possible combination of high-quality goods and services and the best value for taxpayers. The House NDAA language also includes an important reminder to MDA that it must continue to learn from the mistakes of its last failed missile defense program, which cost taxpayers more than \$1.2 billion.⁸

When lawmakers go to conference on the Senate and House versions of the NDAA, we urge conferees to choose the House language on NGI and to reject the premature Senate language on increased NGI production. Billions of taxpayer dollars could be at stake.

Sincerely,



National Taxpayers
Union



R Street Institute



Taxpayers Protection
Alliance

CC: Members of the Senate Committee on Armed Services
Members of the House Committee on Armed Services

⁷ *Ibid.*

⁸ Government Accountability Office. "Missile Defense: Assessment of Testing Approach Needed as Delays and Changes Persist." GAO-20-432, July 2020. Retrieved from: <https://www.gao.gov/assets/gao-20-432.pdf#page=71> (Accessed September 29, 2021.)