

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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June 17, 2022

The Honorable Lloyd J. Austin III
Secretary
Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Austin:

I write to express my concern that the Department of Defense (DOD) has continued to award government contracts to companies such as Amec Foster Wheeler (Amec) and Vitol Inc. (Vitol), despite those companies' being subject to significant criminal penalties for bribery under the Foreign Corrupt Practices Act. As the world's largest purchaser of goods and services, and as stewards of taxpayer dollars, the federal government must conduct business with companies exhibiting integrity and business ethics. While many Americans are struggling to fill their gas tanks, it is troubling to see taxpayer dollars going to companies in the energy sector with such egregious records of legal violations.

The Federal Acquisition Regulation (FAR) requires that government contractors "conduct themselves with the highest degree of integrity and honesty."¹ Contractors are required to have written codes of business ethics to facilitate the discovery and disclosure of improper conduct and to ensure that corrective measures are promptly taken.

Federal agencies are required by the FAR to contract only with companies that are deemed "responsible." To receive such a designation, a company must have a "satisfactory record of integrity and business ethics."² Contracting officers must make an "affirmative determination of responsibility" before proceeding with the award of a contract.

Agencies are authorized to impose suspensions or debarments on contractors to protect the government from unscrupulous contractors.³ Among the causes for suspension or debarment that are delineated in the FAR are "bribery" and the "[c]ommission of any other offense indicating a lack of business integrity."⁴ While suspensions and debarments are serious sanctions that must

¹ Federal Acquisition Regulation § 3.1002.

² Federal Acquisition Regulation §§ 9.103(a), 9.104-1(d).

³ Federal Acquisition Regulation Subpart 9.4.

⁴ Federal Acquisition Regulation § 9.406-2.

be carefully deliberated, they play a crucial role in safeguarding the federal procurement process from waste, fraud, and abuse.

In June 2021, Amec, a subsidiary of United Kingdom–based engineering company John Wood Group plc, agreed to pay a criminal penalty of over \$18 million related to the payment of bribes in Brazil to obtain a large energy infrastructure contract.⁵ The company also agreed to pay \$22.7 million in a related civil matter with the Securities and Exchange Commission.⁶ Since that time, DOD has awarded over \$7 million in contracts to an Amec joint venture, Cardno–Amec Foster Wheeler Joint Venture.⁷

Similarly, in December 2020, Vitol, a U.S. subsidiary of a Netherlands-based international energy company, agreed to pay a criminal penalty of over \$135 million, also involving payment of bribes in Brazil to win energy contracts in violation of the Foreign Corrupt Practices Act.⁸ Since that time, DOD has awarded over \$65 million in contracts to Vitol and Vitol Aviation Company, another U.S. subsidiary of parent company Vitol Netherlands Coöperatief U.A.⁹

The Committee is seeking to determine whether DOD is properly screening contractors that have had criminal and civil violations related to their business integrity, including violations of the Foreign Corrupt Practices Act. In order to inform the Committee’s inquiry, please provide the following information to the Committee by July 1, 2022:

1. Explain whether Amec, Vitol, or affiliates of either company have been subject to suspension or debarment proceedings and, if so, the resolution of each of those proceedings;
2. Explain the rationale for determining that Amec, Vitol, or affiliates of either company were “responsible” contractors, pursuant to FAR Part 9, in connection with the award of contracts by DOD since June 25, 2021, for Amec and its affiliates, and since December 3, 2020, for Vitol and its affiliates;

⁵ Department of Justice, *Press Release: Amec Foster Wheeler Energy Limited Agrees to Pay over \$18 Million to Resolve Charges Related to Bribery Scheme in Brazil* (June 25, 2021) (online at www.justice.gov/opa/pr/amec-foster-wheeler-energy-limited-agrees-pay-over-18-million-resolve-charges-related-bribery).

⁶ Securities and Exchange Commission, *Press Release: SEC Charges Amec Foster Wheeler Limited With FCPA Violations Related To Brazilian Bribery Scheme* (June 25, 2021) (online at www.sec.gov/news/press-release/2021-112).

⁷ See USASpending.gov Database (online at www.usaspending.gov/search/?hash=8aab1d12793cbbd7e4644b94ff05a991) (accessed May 24, 2022).

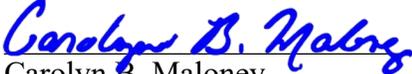
⁸ Department of Justice, *Press Release: Vitol Inc. Agrees to Pay over \$135 Million to Resolve Foreign Bribery Case* (Dec. 3, 2020) (online at www.justice.gov/opa/pr/vitol-inc-agrees-pay-over-135-million-resolve-foreign-bribery-case).

⁹ See USASpending.gov, *Vitol Netherlands Coöperatief U.A.* (online at www.usaspending.gov/recipient/eedb1819-b7cd-6338-5022-a8946a80ad31-P/latest) (accessed May 24, 2022).

3. Describe any commitments made or corrective actions taken by Amec, Vitol, or affiliates of either company to demonstrate their present responsibility to DOD pursuant to FAR Part 9;
4. Identify any instance, including the date, when Amec, Vitol, or affiliates of either company notified DOD of violations of “[f]ederal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act,” pursuant to FAR § 3.1003(a)(2);
5. Identify any instance in the last five years in which DOD suspended, debarred, or made a negative determination of responsibility for a contractor or potential contractor based on a guilty plea or a conviction for fraud or other legal actions that may reasonably raise questions of the entity’s integrity or business ethics; and
6. Identify the processes that DOD has in place for ensuring that the Department awards contracts only to responsible companies without records of fraud, bribery, and other misconduct, including coordination with the DOD Inspector General, the Department of Justice, or any other entities.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,


Carolyn B. Maloney
Chairwoman

cc: The Honorable James Comer, Ranking Member