

Congress of the United States

Washington, DC 20515

February 6, 2024

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

Dear Secretary Austin:

The Committee on Oversight and Accountability is continuing to investigate the Biden Administration's provision of U.S. taxpayer-funded assistance to Ukraine. Since January 2014, the U.S. has dedicated more than \$47 billion in military assistance to Ukraine, \$44.2 billion of which has been provided since Russia further invaded Ukraine in February 2022.¹ The Committee remains concerned about the Department of Defense's (DoD) ability to conduct end-use monitoring of weapons, equipment, and other defense articles going to Ukraine. It is vital that DoD works to ensure weapons and other forms of security assistance are used for their intended purposes, that they do not fall into the hands of our enemies, and that the risk of waste, fraud, and abuse is mitigated. The Committee is seeking further documents and information to understand how DoD intends to ensure adequate oversight of defense articles for Ukraine in light of a recent Inspector General report casting doubt on DoD's prior assurances to the Committee.

On February 22, 2023, the Committee sent you a request for documents and communications regarding the strategies for end-use monitoring of weapons and equipment for the Ukrainian people.² A month later, without any document production, the DoD provided a classified briefing to committee staff on March 24, 2023, regarding its oversight mechanisms on Ukraine assistance. It was not until April 24, 2023, that the Committee received documents from DoD on the accountability measures DoD had implemented for tracking weapons and equipment going to Ukraine.³

The Committee sent you a July 7, 2023, request for a briefing following reports indicating that DoD failed to properly assess taxpayer funds after overestimating the value of weapons and wartime stockpiles sent to Ukraine by \$6.2 billion.⁴ On July 28, 2023, Committee staff received a briefing from DoD's Office of the Undersecretary of Defense (Comptroller) to understand this

¹ *U.S. Security Cooperation with Ukraine*, BUREAU POL.-MIL. AFF. (Dec. 23, 2023) available at <https://www.state.gov/u-s-security-cooperation-with-ukraine/>.

² Letter from James Comer, et al., Chairman, H. Comm. on Oversight & Accountability, to Lloyd Austin, et al., Sec'y, U.S. Dep't of Def. (Feb. 23, 2023).

³ Letter from Rheanne Wirkkala, Asst. Sec'y for Legislative Affairs, U.S. Dep't of Def. to James Comer, Chairman, H. Comm. on Oversight & Accountability, *Enclosure 1-25*.

⁴ Letter from James Comer, et al., Chairman, H. Comm. on Oversight & Accountability to Lloyd Austin, Sec'y, U.S. Dep't of Def. (July 7, 2023).

“accounting error.” DoD assured the Committee that it was working to correct administrative pitfalls that led to this mistake.

On October 23, 2023, the Committee wrote to you again to request a staff-level briefing on procedures DoD is implementing to prevent, address, and mitigate weapons diversion abroad.⁵ This request came after reports of U.S.-origin equipment being repurposed by Russians, which had been seized in the conflict between Russia and Ukraine.⁶ DoD provided a classified, staff-level briefing on November 28, 2023, to satisfy the Committee’s request. In the briefing, DoD assured the Committee that every measure was in place to ensure that no weapons or defense articles were being diverted.

Documents and briefings provided to the Committee detailed reporting mechanisms the Ukrainian Armed Forces must utilize to keep track of what DoD has termed, “Enhanced End Use Monitoring” (EEUM) designated weapons and equipment. EEUM are some of the most advanced, sensitive military equipment being provided to Ukraine including various types of missiles, manned and unmanned aircraft, infrared countermeasures, and night vision devices.⁷ EEUM tracking and reporting mechanisms included: routine expenditure and loss reports; conducting regular inventories at weapons depots and other logistics hubs across Ukraine using handheld scanners; and DoD partnerships with Ukrainian officials to track U.S.–origin equipment digitally through DoD logistics software.⁸ DoD assured the Committee that they were taking every step necessary to mitigate risks.

Despite multiple assurances from DoD that every mechanism is in place to prevent waste, fraud and abuse of U.S. taxpayer funds going to Ukraine, the DoD Inspector General (DoD IG) has alerted Congress of failures by DoD to track enhanced weapons and other defense articles going to Ukraine. On January 10, 2024, DoD IG released a report titled: “Evaluation of DoD’s Enhanced End-Use Monitoring of Defense Articles Provided to Ukraine.”⁹ DoD IG’s findings in this report contradict the commitments DoD made to the Committee guaranteeing that effective mechanisms are in place to track American weapons and equipment going to Ukraine.

DoD IG found that DoD did not fully comply with the EEUM program requirements for defense article accountability in a hostile environment.¹⁰ For example, the Office of Defense Cooperation—Ukraine delayed conducting initial inventories on all EEUM-designated defense articles, sometimes being hundreds of days behind schedule on their inventory due dates.¹¹ This delinquency has caused approximately 59 percent of the total EEUM-designated defense articles to

⁵ Letter from James Comer, et al., Chairman, H. Comm. on Oversight & Accountability, to Lloyd Austin, Sec’y, U.S. Dep’t of Def. (Oct. 23, 2023).

⁶ *Id.*

⁷ U.S. DEP’T OF DEF. INSPECTOR GEN., DODIG-2024-043, EVALUATION OF THE DOD’S ENHANCED END-USE MONITORING OF DEFENSE ARTICLES PROVIDED TO UKRAINE, 2, (Jan. 10, 2024).

⁸ *Supra* n. 3.

⁹ U.S. DEP’T OF DEF. INSPECTOR GEN., DODIG-2024-043, EVALUATION OF THE DOD’S ENHANCED END-USE MONITORING OF DEFENSE ARTICLES PROVIDED TO UKRAINE (Jan. 10, 2024).

¹⁰ *Id.* at i.

¹¹ *Id.* at 26.

remain unaccounted for as of June 2, 2023.¹² The Committee has consistently expressed concern about the over-reliance on the Ukrainian Armed Forces to conduct monitoring and evaluation of weapons going to Ukraine. The DoD IG found that despite updated guidance and procedures, the Ukrainian Armed Forces did not provide timely expenditure or loss reports—sometimes being hundreds of days behind schedule.¹³ As the DoD IG points out, “High rates of delinquency may correlate with an inability to maintain complete accountability of the EEUM- designated defense articles, which, in turn, may increase the risk of theft or diversion.”¹⁴ In response to DoD IG’s report, the Office of Defense Cooperation—Ukraine points out, “...the unprecedented volume of EEUM-designated articles within Ukraine, currently exceeding 50,000 items and growing, is beyond the capacity of the limited DoD personnel in country to physically inventory even if access were unrestricted.”¹⁵

The DoD IG also raised alarms to the lack of transparency between DoD and the Department of State (DoS) when it comes to developing a clear line of communication with documentation of third-party transfers.¹⁶ Before a partner nation transfers enhanced equipment to Ukraine, the DoS must authorize the transfer, which is known as a third party transfer.¹⁷ DoD IG pointed out that DoS officials did not always make DoD aware or provide them with documentation of an EEUM-designated defense transfer, which accounts for 18 percent of all EEUM-designated weapons being sent to Ukraine.¹⁸

DoD’s failures in tracking sensitive military equipment provided to Ukraine are unacceptable. To assist the Committee in its investigation into what is being done to mitigate the vulnerabilities of military assistance to Ukraine, please provide the following documents and information covering the period of February 24, 2022, to the present, as soon as possible, but no later than February 20, 2024:

1. All documents and communications regarding guidance and procedures presented to the Ukrainian Armed Forces on how to conduct inventory and loss reports of EEUM-designated equipment;
2. All documents and communications, including but not limited to, memorandums of understanding between the U.S. and Ukraine, regarding the assurances Ukraine has made to be held accountable for U.S. originating military equipment and defense articles;
3. All documents and communications detailing conditions placed on U.S. military assistance provided to Ukraine;

¹² *Id.* at i.

¹³ *Id.* at 30.

¹⁴ *Id.* at 31.

¹⁵ *Id.* at 68.

¹⁶ *Id.* at 23.

¹⁷ *Id.*

¹⁸ *Id.*

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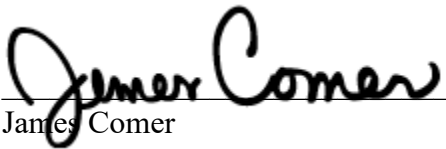
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4. All documents and communications between DoD and DoS regarding the policies and procedures in place to conduct third-party transfers and foreign military sales of EEUM-designated defense articles to Ukraine, and;
5. All documents and communications regarding the procedures outlined to the Defense Security Cooperation Agency and the Office of Defense Cooperation – Ukraine to conduct EEUM.

To arrange for the delivery of documents or to ask any follow-up questions, please contact the Committee on Oversight and Accountability Majority staff at (202) 225-5074. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you for your prompt attention to this matter.

Sincerely,



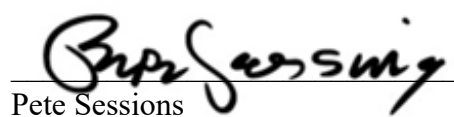
James Comer
Chairman
Committee on Oversight and Accountability



J.D. Vance
U.S. Senator



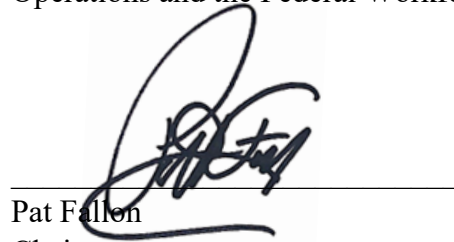
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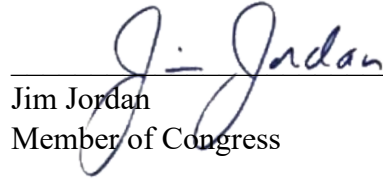
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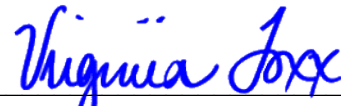
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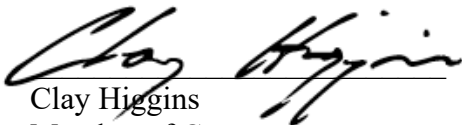
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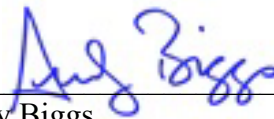
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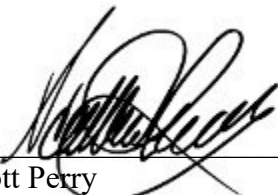
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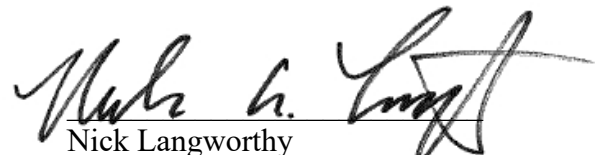
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Michael Waltz
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cc: The Honorable Jamie B. Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Robert Garcia, Ranking Member
Subcommittee on National Security, the Border, and Foreign Affairs

The Honorable Kweisi Mfume, Ranking Member
Subcommittee on Government Operations and the Federal Workforce

The Honorable Gerald Connolly, Ranking Member
Subcommittee on Cybersecurity, Information Technology, and Government Innovation

The Honorable Cori Bush, Rankin Member
Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs

The Honorable Katie Porter, Ranking Member
Subcommittee on Health Care and Financial Services