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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

October 9, 2012

David Vieau  
President and CEO  
A123 Systems  
200 West Street  
Waltham, MA 02451

Dear Mr. Vieau:

In August 2012, we expressed concerns regarding the \$249.1 million Department of Energy grant A123 received through the American Reinvestment and Recovery Act of 2009 (Recovery Act). That same month, A123 and the China-based Wanxiang announced a \$450 million deal. According to media reports, Wanxiang will purchase \$200 million of A123's secured debt and provide up to an additional \$250 million in financing. A key part of this transaction gives Wanxiang the option to transfer some of this debt into ownership of the company, which could result in Wanxiang owning 80 percent of A123.

When asked about this deal, you said, "It does imply that [Wanxiang] could become the majority owner at the end of this deal. The implication is that they would have access to how we make batteries. But we're a commercial maker of batteries, and frankly 98 percent of the battery industry today is owned, operated and controlled by companies that are operating out of Korea, Japan or Taiwan and China."<sup>1</sup>

Our concern is that billions of U.S. taxpayer dollars have already flowed to foreign companies through the Recovery Act, and this recent announcement could lead not only to more taxpayer dollars going overseas, but as you noted, it could also lead to foreign government access to technology A123 has described as "innovative" and "next generation."<sup>2</sup>

In fact, A123 already holds several multi-million dollar Department of Defense contracts and according to public documents, A123 is actively pursuing Department of Defense contracts in areas that range from military vehicles, power grids, and tactical energy surety to unmanned aerial and underwater vehicles, unmanned ground and portable power systems, high-energy lasers, and advanced armor.

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<sup>1</sup> Bloomberg, Chinese Rescue of Battery Maker Saves U.S. Jobs, CEO Says, Alan Ohnsman and Hasan Dudar, August 10, 2012.

<sup>2</sup> [www.a123systems.com](http://www.a123systems.com), About A123 Systems.

Given that A123 could soon be owned by a Chinese company, please answer the following questions with regards to this transaction and A123's outstanding Recovery Act grant:

1. How much of A123's \$249.1 million Recovery Act grant is still outstanding?
2. What was the date of the most recent grant distribution from DOE to A123 and how much was that distribution?
3. Considering that A123 has already received millions of U.S. taxpayer dollars and could potentially receive up to \$450 million from a foreign company, does A123 need additional taxpayer dollars to continue its operations?
4. If the A123-Wanxiang transaction is approved, how will that impact future distributions of A123's Recovery Act grant, if at all?
5. What assurances, if any, has A123 given the Federal government that the A123-Wanxiang transaction and additional DOE funding through the Recovery Act will not lead to a transfer of taxpayer-funded intellectual property to a China-based company, or that the taxpayer-funded manufacturing jobs will remain in the United States?
6. With the recent announcement that Wanxiang will be investing in A123, has the DOE placed additional milestones on A123's progress before awarding A123 additional Recovery Act grant dollars, and if so, what are those milestones?
7. In an August 3, 2012, letter to us, Acting Executive Director of DOE's Loan Program Office David Frantz wrote that, "(t)he Department is in constant dialogue with A123 to stay abreast of progress, challenges, plans and developments to assure that the project is meeting the objectives as defined in the grant. DOE is also continually monitoring risk and financial conditions." As part of this "continual monitoring" when did A123 make the DOE aware of A123's pending transaction with Wanxiang?
8. Did DOE raise any objection to this transaction to A123? If so, when? Please provide documents supporting any objection raised by DOE to this transaction.
9. Has A123 submitted any paperwork to the Committee on Foreign Investment in the United States? If so, please provide this paperwork.
10. Did A123 receive any offers or indications of interest from U.S.-based corporations? If so, was the DOE made aware of these offers?
11. How does the proposed Wanxiang deal protect the interest of shareholders whose holdings are likely to be diluted?
12. Has A123 received any contracts from the Federal government for classified work? If so, what is the highest level of classification?

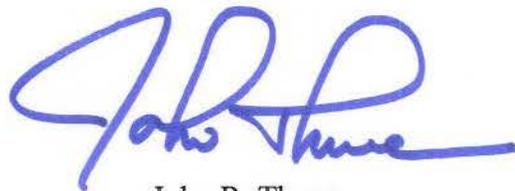
13. Is A123 pursuing any contracts from the Federal government which require security clearance? If so, what is the highest level of classification?
14. If A123 is acquired by a foreign company, how will sensitive Department of Defense data be protected?

Thank you for your cooperation and attention in this matter. We would appreciate a response by October 23, 2012. If you have any questions, please do not hesitate to contact Chris Lucas for Senator Grassley at (202) 224-5225 and Brendon Plack for Senator Thune at (202) 224-2321.

Sincerely,



Charles E. Grassley  
Ranking Member  
Committee on the Judiciary



John R. Thune  
United States Senator