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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

December 18, 2020

VIA ELECTRONIC TRANSMISSION

Mr. Sean O'Donnell
Acting Inspector General
Department of Defense Office of Inspector General

Dear Mr. O'Donnell:

As you know, I have focused my oversight efforts on the Office of Net Assessment (ONA) since January 16, 2019, when I wrote to the Department of Defense (DoD) Inspector General (DoD IG) requesting a review of allegations that ONA contracts were potentially used to support political or other improper or wasteful activities, and had failed to produce progress reports on the whistleblower case of Mr. Adam Lovinger, which was the genesis of the alleged misuse of ONA contracts. Since then, I have written several letters to ONA requesting additional information related to Professor Stefan Halper's contracted work. ONA has thus far failed to respond in full.¹

Moreover, in light of my oversight work, in June 2020, I introduced legislation in the Senate that would require ONA to perform the mission that it was designed to do – a net assessment – and make it work better for the American taxpayer. That legislation included a requirement that the DoD IG perform a comprehensive assessment to determine ONA's failure to comply with the laws and regulations in contracting for research projects and performing a net assessment.

On October 19, 2020, your office announced an evaluation "to determine the extent to which the Office of Net Assessment has developed and implemented policies and procedures to

¹ I have made repeated requests for information from ONA. ONA has provided documents, but has failed to produce all of them. Either ONA officials do not have possession of certain documentation required in Professor Halper's contracts, or they've failed to comply with congressional demands. See Letter from Chairman Charles Grassley, S. Comm. on Fin., to Mr. Glenn Fine, Principal Deputy Inspector General, Defense Department Inspector General (January 16, 2019); Letter from Chairman Charles Grassley, S. Comm. on Fin., to then-Acting Secretary of Def. Mark Esper, Dep't of Def. (July 12, 2019); Letter from Chairman Charles Grassley, S. Comm. on Fin., to James Baker, Dir. Off. Of Net Assessment, Dep't of Def. (Jan. 22, 2020); Letter from Chairman Charles Grassley, S. Comm. on Fin., to James Baker, Dir. Off. Of Net Assessment, Dep't of Def., (June 18, 2020). For example, Chairman Grassley has not received the unredacted emails pursuant to his June 18, 2020 letter. Letter from Chairman Charles Grassley, S. Comm. on Fin., to James Baker, Dir. Off. Of Net Assessment, Dep't of Def. (June 18, 2020) (Letter requested, among other things, the unredacted emails that were released on April 29, 2020 subsequent to a Judicial Watch Freedom of Information Act request, showing communications among DoD employees, including Director James Baker, with *The Washington Post* reporter David Ignatius. ONA provided the requested emails, but did not provide them in the unredacted format requested.).

conduct its assessment missions in accordance with DoD Directive 5111.11.”² I appreciate your efforts; however, generalized evaluations such as the one you plan to perform will do no good for the taxpayer unless you perform an aggressive evaluation of ONA’s contract activities and compliance with both law and regulation. The failure to do so will result in work product less than what the taxpayer deserves.

For example, according to the Director of ONA, James Baker, ONA has not performed a net assessment since 2007.³ One core question that DoD IG should ask is *why* ONA failed to perform a formal net assessment since 2007. In addition, since ONA failed to perform its core mission, the DoD IG must determine whether every ONA contract from 2007 to the date of this letter has complied with its intended scope and purpose – that is, to perform a net assessment. As it stands, there is a serious question as to whether or not millions of dollars in taxpayer funds have essentially been wasted on contracts that never advanced a net assessment.

I would further note for purposes of your evaluation that after I began my oversight of ONA, DoD Directive 5111.11 was changed to provide cover for the unit’s lackluster performance. For example, on April 14, 2020, after I began my inquiry, the word “shall” was removed from the December 23, 2009 version of the Directive that required ONA to produce net assessments. The new version also changed ONA’s research scope to generic “research” seemingly untethered to a net assessment. This is yet another example of ONA’s apparent lack of effort to perform its mission on behalf of the American taxpayer and an effort to cover-up its previous failures to do the job for which it was designed.

ONA has operated with an average budget of roughly \$17 million from fiscal years (FY) 2007-2019,⁴ with ONA’s lowest budget coming in FY 2014 for just about \$9 million.⁵ Yet, ONA has not performed a net assessment since 2007.⁶ In order to ensure that proper oversight mechanisms are in place at ONA, financial waste is kept to a minimum, research contracts comport with the purpose of ONA’s statutorily mandated net assessment, and that all contract documents are collected and recorded as required by all applicable federal law and regulation, I request that DoD IG expand its evaluation to answer the following questions and include the following analysis:

² Dep’t of Def. Off. Of Inspector General, Project Announcement: Evaluation of the Office of Net Assessment (Project No. D2021-DEV0SA-0011.000), <https://www.dodig.mil/reports.html/Article/2389005/project-announcement-evaluation-of-the-office-of-net-assessment-project-no-d202/>.

³ Kerry Pickett, *Republicans eye Defense Department official in Flynn leaks case*, Washington Examiner (June 24, 2020), <https://www.washingtonexaminer.com/news/republicans-eye-defense-department-official-in-flynn-leaks-case>.

⁴ Number derived from averaging estimated, and enacted, budgets as reported in Office of the Secretary of Defense Budget Estimates for fiscal years 2007-2019.

⁵ Fiscal Year 2016 President’s Budget Office of the Secretary of Defense (OSD), https://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2016/budget_justification/pdfs/01_Operation_and_Maintenance/O_M_VOL_1_PART_1/OSD_PB16.pdf?bcsi-ac-cde40c890bd19f3d=2719301D00000002ErseD0VKQqskhHFLM+MMiY+wQFfpHAAAAGAAAE0ybACEAwAAVAAAADXNBwA=#page=5.

⁶ Kerry Pickett, *Republicans eye Defense Department official in Flynn leaks case*, Washington Examiner (June 24, 2020), <https://www.washingtonexaminer.com/news/republicans-eye-defense-department-official-in-flynn-leaks-case>.

1. Why has ONA failed to perform net assessments since 2007?
2. Are other offices within DoD performing net assessments separate from ONA? If so, please provide a complete list of those offices and the total cost of those assessments for each office for each of the past five years.
3. Are other offices within DoD performing generic research as described in the new DoD Directive 5111.11? If so, please provide a complete list of those offices and the total cost of that research for each office for each of the past five years.
4. Since ONA no longer performs net assessments, is ONA's existence duplicative and wasteful in light of other DoD offices performing the same work?
5. A description and assessment of the extent to which ONA has failed to comply with laws and regulations in contracting for research projects during the five-year period ending on September 30, 2020.
6. An assessment to determine whether all supporting documentation for ONA's contracting comports with the Statement of Work agreed to between the contractors and DoD during the five-year period ending on September 30, 2020.
7. The steps ONA must take to ensure that all contract documents are collected and recorded as required by all relevant law and regulation.
8. What is the total cost to perform an annual net assessment?
9. An analysis as to whether or not an annual net assessment can be performed by ONA at a cost less than \$10,000,000.

Should you have questions, please contact my Committee staff at (202) 224-4515. Thank you for your continued attention to this important matter.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance