

Congress of the United States
Washington, DC 20515

October 10, 2023

Mr. Michael N. Levy
Partner
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1050 30th St. NW
Washington, DC 20007

Dear Mr. Levy:

Thank you for your September 1, 2023, letter responding to our July 13 letter to your client, Ms. Sally Donnelly. Our letter pointed to still-unanswered questions about your client's potential role in advancing the interests of C5 Capital and its business partner, Amazon, while employed at the Department of Defense as a senior advisor to then Secretary James Mattis. Though you want to claim that these questions have all been answered, they haven't, and we will continue to press for answers from your client and urge her cooperation with our investigation.

Before getting into the substance of your letter, however, we want to address your implication that we were somehow delayed in notifying you of our inquiry. You noted in your reply that Senator Grassley's staff, "only sent a copy of this letter [to you] after 7:00 pm on August 10, less than 24 hours before [you were] scheduled to begin a long-planned August vacation." We wrote Ms. Donnelly on July 13 both by certified mail and by email to Pallas Advisors. She failed both to pass that communication along to you and to notify us that you represent her in this matter.

To start with, your letter addressed some of the same topics raised in the July 27 response from Mr. Christopher Armstrong of Holland & Knight's Washington, D.C. office, who represents Mr. Pienaar in this inquiry. Indeed, in that response, Mr. Armstrong made assertions as to your client's state of mind that are more properly your responsibility to make, and so we urge you to review that correspondence and advise us whether the claims made about your client by Mr. Armstrong are accurate.¹

Like Mr. Armstrong's July 27 letter, your response continuously references the report on the JEDI Cloud procurement issued by the Office of the Inspector General (OIG) at the Department of Defense. Congress has a constitutional responsibility to review the work of the inspectors general, just as it has oversight of the agencies they serve. We have raised a number of questions about, and objections to, the OIG's report. Continuing to simply argue from that report as if it's a dispositive authority is unpersuasive. In future responses it would be helpful to see original documents rather than references to a report that, while helpful in certain respects, is not the final authority on a matter that it failed to adequately report on initially, and a matter which has continued to develop since the report was issued.

¹ Letter from Christopher J. Armstrong, Partner, Holland & Knight, to Senator Charles E. Grassley and Rep. Nancy Mace (July 27, 2023), https://www.grassley.senate.gov/imo/media/doc/pienaar_to_grassley_mace_-_jedi.pdf.

Indeed, Senator Grassley has uncovered significant new information since that report was issued, especially the fact that C5 Capital and Mr. Pienaar formed a company, VMAP Investor LLC, just before Ms. Donnelly entered her position at the DOD in 2017, apparently for the sole purpose of purchasing her stake in SBD Advisors. Ms. Donnelly took a number of steps to avoid disclosing the identity of that company to officials who had a right to know it.² She didn't provide the name of the company, or its links to Amazon-affiliated C5 Capital, on her initial financial disclosure forms filed with the Department of Defense; she didn't reveal the name of the company that purchased her firm on her termination financial disclosure forms upon leaving the Department of Defense in 2018; and she failed to provide the identity of the company that purchased her firm even in response to a direct question from the DOD Inspector General's office.³ We need to know why.

Moreover, while your letter quotes the OIG's report and its discussion of Ms. Donnelly's financial disclosures and its findings that, "Ms. Donnelly did not violate any ethical agreements and obligations regarding Office of Government Ethics financial disclosures," you haven't explained how providing the amount of payments received is useful in an ethics review without naming the source of the income. As we have already quoted to you, the Office of Government Ethics' (OGE) instructions for completing OGE Form 278, the financial disclosure form Ms. Donnelly completed upon entering service at the DOD, filers are required to provide, "sufficient information" to ethics officials, "concerning the nature of their outside interests and activities so that an informed judgment can be made with respect to compliance with applicable conflict of interest laws and standards of conduct regulations."⁴ It makes little sense to claim Ms. Donnelly was required to disclose the dollar amount of the transaction, but not to disclose the source, as the amount of a transaction by itself never tells one whether a conflict exists. Moreover, even if the source somehow was not required, neither you nor the OIG report has explained why it was satisfactory for Ms. Donnelly to report a single \$390,000 payment on her entry financial disclosure, even though at the time it was filed in May 2017, she had received two installment payments, not just one.⁵ That second payment was received in March 2017, well before she filed her initial disclosure, leaving her ample time to report it. She didn't do so. Again, this creates the appearance that she consciously attempted to avoid disclosing the ongoing financial link to

² Letter from Senator Charles E. Grassley, Ranking Member, Senate Committee on the Budget, and Rep. Nancy Mace, House Committee on Oversight and Accountability, to Christopher Anderson, Partner, Holland & Knight (October 10, 2023).

³ U.S. Dep't of Defense, Office of Inspector Gen., Interview of Sally B. Donnelly (August 15, 2019) at 6 (emphasis added), https://www.dodig.mil/Portals/48/DODOIG-2020-001050%201st%20Interim%20response%20records_1.pdf.

⁴ U.S. Office of Gov't Ethics, OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, Instructions for Completing OGE Form 278, [https://www.oge.gov/web/oge.nsf/0/A7FBDC0209B57819852585B6005A06C4/\\$FILE/8c47512231004e2d98b6966829afebf4.pdf](https://www.oge.gov/web/oge.nsf/0/A7FBDC0209B57819852585B6005A06C4/$FILE/8c47512231004e2d98b6966829afebf4.pdf).

⁵ See Letter from Senator Charles Grassley, Ranking Member, U.S. Senate Comm. on the Judiciary, to Lloyd J. Austin, Secretary, U.S. Dep't of Defense, and Sean O'Donnell, Acting Inspector General, Dep't of Defense, Office of the Inspector General (October 24, 2022), https://www.grassley.senate.gov/imo/media/doc/grassley_to_defense_deptdefenseinspectorgeneralsbdadvisorsllconflitsofinterestreview1.pdf.

VMAP and C5 during her tenure at DOD. We will continue to ask why until a satisfactory answer is provided.

Of course, once it's established that a conflict existed, a key question then is whether the conflicted official took actions irrespective of that conflict. Here, the question is whether Ms. Donnelly took actions to favor C5 Capital and Mr. Pienaar, who were paying Ms. Donnelly installment payments, and their business partner and Ms. Donnelly's former client, Amazon. Your letter claims that, "[w]hile at the Department of Defense, Ms. Donnelly had no role in acquisition or procurement. She played no role, and exercised no influence, in connection with any government contract, including – as the Department of Defense has confirmed repeatedly – the JEDI procurement." We're well aware that the case has been made that Ms. Donnelly played no *formal* role in the JEDI contract, and that she certainly wasn't supposed to play a role, but to say that she played no role at all is simply inaccurate and avoids now well-known facts. Not only did she play a role, but she played what at the time was a key one: the OIG report noted—a source your letter frequently cites—the OIG interviewed Mr. Kevin Sweeney, Secretary Mattis's Chief of Staff in 2017, and he told the OIG that he thought Ms. Donnelly set up the March 31, 2017, dinner in the U.K. that included Secretary Mattis, Ms. Donnelly, along with Andre Pienaar and Amazon Public Sector Sales Vice President, Teresa Carlson, Mr. Pienaar's then girlfriend. Mr. Sweeney also said that he thought Ms. Donnelly invited her friend, Ms. Carlson, to that dinner.⁶ As you must be aware, Ms. Carlson used that opportunity to ask Secretary Mattis to meet with then Amazon CEO, Jeff Bezos.⁷ Internal DOD records show that Ms. Donnelly strongly pushed for that meeting to occur, praising Mr. Bezos as, "the genius of our age," and listing myriad reasons the Secretary should meet him.⁸ When the meeting did occur, on August 10, 2017, it turned into a sales pitch for Amazon Web Services and led to the Secretary's decision to move the Department to the Cloud, and to Amazon becoming the lead contender to provide that service to DOD.⁹

⁶ U.S. Department of Defense, Office of the Inspector General, Report on the Joint Enterprise Defense Infrastructure (JEDI) Cloud Procurement (April 13, 2020) at 174, [https://media.defense.gov/2020/Apr/21/2002285087/-1/-1/1/REPORT%20ON%20THE%20JOINT%20ENTERPRISE%20DEFENSE%20INFRASTRUCTURE%20\(JEDI\)%20CLOUD%20PROCUREMENT%20DODIG-2020-079.PDF](https://media.defense.gov/2020/Apr/21/2002285087/-1/-1/1/REPORT%20ON%20THE%20JOINT%20ENTERPRISE%20DEFENSE%20INFRASTRUCTURE%20(JEDI)%20CLOUD%20PROCUREMENT%20DODIG-2020-079.PDF).

⁷ Letter from Sen. Charles E. Grassley and Rep. Nancy Mace, *supra* n. 2 (quoting email, Sally Donnelly to Admiral Faller (April 23, 2017): "He [Jeff Bezos] asked [Secretary Mattis to meet with Mr. Bezos] (via Teresa Carlson at the dinner in London.)," on file with staff.

⁸ Email, Sally Donnelly to Kevin Sweeney, Adm. Craig Faller, et al., Re: Flagging – Jeff Bezos office call on Thursday, 27 April (April 21, 2017 at 4:00 p.m) (Donnelly and Admiral Faller are asked if they, "want to accept the office call with Jeff Bezos of Amazon and Blue Origin," and told that, "CoS [the Chief of Staff] defers to [Donnelly and Faller] for SecDef consideration," and Donnelly replies: "I think he is the genius of our age, so why not."), on file with staff; letter from Sen. Charles E. Grassley and Rep. Nancy Mace, *supra* n. 2.

⁹ Email, Redacted sender (CIV SD) to Sally Donnelly (August 10, 2017 at 2:35 PM); email, redacted sender (CIV SD) to Sally Donnelly (August 10, 2017 at 2:59 pm); email, Will Roper, United States Air Force, to Patrick Shanahan, Deputy Secretary of Defense, and Ellen Lord, Undersecretary for Acquisitions (August 12, 2017) (reporting on Secretary Mattis's August 10, 2017 Amazon visit and noting that Secretary Mattis made an "important decision" on that trip, and that the Secretary, "now believe[d] in Cloud tech and wants to move the Departments to it"); email, Jennifer Chronis, Amazon Web Services, to Joshua J. Marcuse, Office of the Secretary of Defense (September 6, 2017) (referencing "cost estimates [from Amazon] for a notional DoD move to the cloud"); memo, Patrick Shanahan, Deputy Secretary of Defense (co-authored by Anthony DeMartino), for secretaries of the military departments, Chairman of the Joint Chiefs of Staff, Under Secretaries of Defense, et alia, Subject: Accelerating Enterprise Cloud Adoption (September 13, 2013) (directing the "use of a tailored acquisition process to acquire a

Indeed, internal emails also show that during the period after the Secretary's August visit with Mr. Bezos, Ms. Donnelly was working to, "crush the bureaucratic impediments" that career DOD officials were mounting against Amazon as it sought this lucrative cloud contract.¹⁰ Your client needs to explain whether she knew in advance of the U.K. dinner that Ms. Carlson would issue the invitation to the Secretary, whether she invited Ms. Carlson and Mr. Pienaar to the U.K. dinner to provide them the opportunity to initiate this major sales pitch for the benefit of Ms. Donnelly's former client, and also her actions at DOD following the U.K. dinner, both to encourage the Secretary to meet with Mr. Bezos and, later, to "crush the bureaucratic impediments" to Amazon being awarded the contract.

Ms. Donnelly facilitating Ms. Carlson's access to the Secretary, the ongoing payments to Ms. Donnelly from C5 and Mr. Pienaar, and furthering Amazon's efforts to win a contract to supply the DOD with cloud services create, at minimum, the clear appearance of a conflict. As we explained to Mr. Armstrong, the lack of a non-compete agreement and the apparent lack of public advertising or web presence by the later iteration of SBD Advisors, ITC Global Advisors, along with Ms. Donnelly's return to the same type of consulting work after her time at DOD, creates legitimate questions about what C5 and Mr. Pienaar were paying for. If this impression is incorrect, it's incumbent upon Ms. Donnelly to provide her version of events which, again, is what we've always sought so that this matter can be put to rest.

Your letter response says that Ms. Donnelly didn't do anything for Amazon she didn't do for other companies vying to provide cloud services to the DOD. Indeed, your letter repeats the OIG's finding that it found, "no evidence that Ms. Donnelly gave Amazon officials greater or more frequent access to meetings with Secretary Mattis than Amazon's competitors who requested to meet with him." If this is true, we certainly welcome your client to provide records and statements to back it up. If you have any contemporaneous emails, for example, that show Ms. Donnelly referring to CEOs of Microsoft, Apple, Google, Oracle or any other competitors as

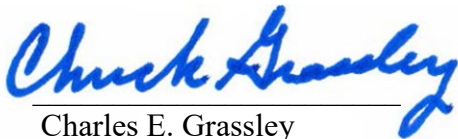
modern enterprise cloud services solution that can support unclassified, secret, and top-secret information," a directive that later is referenced in Air Force acquisition documents as meaning that, "The AWS Cloud Solution is a DoD priority as per the Secretary of Defense Memorandum dated 13 Sep. 2017 . . ."), all documents on file with staff.

¹⁰ See email, Enrique Oti to Greg Oslan, cc to Raj Shah and Sean Heritage (August 25, 2017 at 10:59 a.m.) noting that he had spoken with "the AWS team" putting together the Secret-level AWS cloud..." and that, even though they had a, "great meeting with SecDef," their "talks last week with DOD/CIO and DISA were interesting." This email referred to "pushback," and says that "everything we do for AOC and the rest of the ops community should be riding AWS SPIR." Apparently dissatisfied with the resistance described in Mr. Oti's email, Raj Shah then forwarded Oti's email to Justin Mikolay, an advisor to Secretary Mattis, with a cc to Sally Donnelly, Subject: FWD: Cloud Computing (UNCLASSIFIED) (August 25, 2017 at 1:07 p.m.), saying it was "crucial that the sd [Sally Donnelly] memo crush the bureaucratic impediments," referenced in Oti's email. Mr. Mikolay replied to Mr. Shah by email that same day at 4:22 p.m., again copying Ms. Donnelly, advising him that, "Sally is already working angles with this note providing but targeting data (who to crush) and ammunition (reason to crush)...." A little over two weeks after this exchange, on September 13, 2017, a memo was released by Deputy Secretary Patrick Shanahan by the title of "Accelerating Enterprise Cloud Adoption," ordering a "tailored acquisition process to acquire a modern enterprise cloud services solution that can support unclassified, secret, and top secret information." (Emphasis added.) That memo is later cited in Air Force procurement documents as meaning that, "[t]he AWS Cloud Solution is a DoD priority as per the Secretary of Defense Memorandum dated 13 Sep 2017" (Justification and Approval (J&A) for Other Than Full and Open Competition, on file with staff).

anything similar to, “the genius of our age,” or listing a host of reasons the Secretary should meet with those corporate leaders, we’d welcome the opportunity to possess and review those records. If you have any materials showing that Ms. Donnelly was working behind the scenes to “crush the bureaucratic impediments” to one of these other companies gaining a lucrative contract to supply the DOD with cloud services, we ask that you submit those. And if you have any examples of Ms. Donnelly arranging intimate dinner meetings between close personal friends she may have in any of these other competitors and Secretary Mattis, by all means, we welcome the chance to possess and review that evidence as well. We have said all along and repeat that we will follow this investigation wherever the facts lead us. What we won’t do, however, is accept mere assertions that contradict the known record and common sense.

We again want to thank you for providing a response to our letter. It is important that we continue this dialogue, to turn the incomplete public record on this matter into a complete and final record. Nothing less than your client’s full cooperation will satisfy our inquiry, and assure taxpayers that proper procedures are in place to prevent the misuse of the public offices they fund with their hard-earned dollars. We therefore ask that you provide a detailed response to the points raised in this letter and to our prior information requests, by October 24, 2023.

Sincerely,



Charles E. Grassley
Ranking Member
Senate Committee on the Budget



Nancy Mace
Member of Congress
Committee on Oversight & Accountability