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United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

June 24, 2022

Andre Pienaar
Chief Executive and Founder
C5 Capital
1701 Pennsylvania Ave, NW
Washington, D.C. 20006

Dear Mr. Pienaar:

I write to you today as I continue my investigation into the Department of Defense, Office of Inspector General's (DoD OIG) review of the Joint Enterprise Defense Initiative (JEDI) Cloud procurement process. My office is reviewing the facts and circumstances surrounding DoD OIG's conflicts of interest analysis concerning the sale of consulting firm SBD Advisors and whether executive branch financial disclosure forms adequately captured sources of income from the sale of the business.

On April 13, 2020, the DoD OIG released its findings concerning the JEDI Cloud procurement process and whether former DoD officials engaged in misconduct related to their financial disclosures.¹ As part of its investigation, DoD OIG interviewed five DoD officials against whom allegations of misconduct were made, including Ms. Sally Donnelly who served as a Senior Advisor to former Secretary James N. Mattis. Ultimately, DoD OIG did not substantiate any of the allegations regarding Ms. Donnelly.² The Government Accountability Office,³ the United States

¹ REPORT ON THE JOINT ENTERPRISE DEFENSE INFRASTRUCTURE (JEDI) CLOUD PROCUREMENT, INSPECTOR GEN. DEP'T OF DEF., REPORT NO. DODIG-2020-079 (Apr. 13, 2020), [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).

² REPORT ON THE JOINT ENTERPRISE DEFENSE INFRASTRUCTURE (JEDI) CLOUD PROCUREMENT, INSPECTOR GEN. DEP'T OF DEF., REPORT NO. DODIG-2020-079 (Apr. 13, 2020), [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).

³ Press Release, GAO, GAO Statement on Oracle Bid Protest (Oct. 18, 2018), <https://www.gao.gov/press-release/gao-statement-oracle-bid-protest>.

Court of Federal Claims,⁴ the United States Court of Appeals for the Federal Circuit,⁵ and the United States Supreme Court⁶ also considered and rejected assertions that, among other things, conflicts of interest tainted DoD's cloud procurement process. I respect the court's decision. However, certain facts have come to light regarding the sale of SBD Advisors that warrant additional review.

For example, during Ms. Donnelly's 2019 sworn testimony to the DoD OIG, she stated that you organized the sale of SBD in 2017.⁷ DoD OIG initially reported in a footnote, albeit incorrectly, that Ms. Donnelly sold her shares of SBD Advisors directly to you.⁸ Public sources later reported that ITC Secure, a portfolio company of C5 Capital—a firm you founded—purchased a majority stake in SBD advisors on April 3, 2018.⁹ In March of this year, DoD OIG revealed that Ms. Donnelly's legal counsel provided the DoD OIG the purchase and sale agreement for SBD Advisors, but redacted the identity of the purchaser. In supporting the integrity of its report, DoD OIG asserts that it “found sufficient evidence that [Ms. Donnelly] disclosed the full sale amount on her OGE Form 278” and that “neither the purchaser nor the purchase vehicle of [SBD Advisors] was relevant to whether [Ms. Donnelly] complied with her Federal ethical obligations.”¹⁰

Last year, I wrote to the DoD and requested a copy of Ms. Donnelly's OGE Form 278e.¹¹ Based on my review of the document DoD produced, Ms. Donnelly's OGE Form 278e does not disclose the identity of the purchaser of SBD Advisors. It provides a general description titled “SBD Advisors LLC” and includes the initial purchase price of \$390,000. (Ms. Donnelly's 2018 term report discloses that she received \$1,170,000 for the sale of SBD Advisors the following year.) In my opinion, DoD OIG did not have all the relevant information to conduct a proper conflicts analysis for the sale SBD Advisors. The identity of the purchaser is central to the question of whether a conflict of interest existed and the types of protocols required to wall off Sally Donnelly from conflicts while working at DoD.

Given your involvement in the initial sale of SBD Advisors, and your involvement in its purchase by ITC Secure in 2018, I ask that you produce an unredacted copy of the purchase and

⁴ Lauren Brier, *Court of Federal Claims Denies Oracle Protest of JEDI Contract: Is This it For Oracle?*, JDSUPRA (July 26, 2019), <https://www.jdsupra.com/legalnews/court-of-federal-claims-denies-oracle-53500/>.

⁵ Nandita Bose, *U.S. appeals court rejects Oracle's challenge in JEDI contract fight*, REUTERS (Sep. 2, 2020), <https://www.reuters.com/article/us-usa-oracle-jedi/u-s-appeals-court-rejects-oracles-challenge-in-jedi-contract-fight-idUSKBN25T26K>.

⁶ Daniel Seiden, *Supreme Court Won't Revive Oracle JEDI Contract Challenge*, BLOOMBERG LAW (Oct. 4, 2021), <https://news.bloomberglaw.com/federal-contracting/supreme-court-wont-revive-oracle-jedi-contract-challenge>.

⁷ Donnelly Dep. at 6 (Aug. 15, 2019), <https://media.defense.gov/2021/Sep/01/2002845046/-1/-1/1/DODOIG-2020-001050%201ST%20INTERIM%20RESPONSE%20RECORDS.PDF>.

⁸ REPORT ON THE JOINT ENTERPRISE DEFENSE INFRASTRUCTURE (JEDI) CLOUD PROCUREMENT, INSPECTOR GEN. DEP'T OF DEF., REPORT NO. DODIG-2020-079 at 169, fn. 144 (Apr. 13, 2020), [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).

⁹ Press Release, Business Wire, ITC Secure Acquires U.S.-based SBD Advisors (Apr. 3, 2018), <https://www.businesswire.com/news/home/20180403005624/en/ITC-Secure-Acquires-U.S.-based-SBD-Advisors>.

¹⁰ On file with Committee.

¹¹ Letter from Senator Charles E. Grassley, Ranking Member, S. Comm. on the Judiciary, to Lloyd J. Austin, Secretary, Dep't of Def. (Apr. 28, 2021), https://www.grassley.senate.gov/imo/media/doc/grassley_to_defense_dept_jedifollowup.pdf.

sale agreement of SBD Advisors that occurred on, or around, January 19, 2017. I also ask that you identify the individuals and/or company ITC Secure purchased SBD Advisors from in 2018.

Thank you for your prompt attention to these questions and concerns. I look forward to receiving and reviewing your responses no later than July 29, 2022.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, slightly slanted style.

Charles E. Grassley

Ranking Member

Committee on the Judiciary