

July 8, 2009

The Honorable Daniel K. Inouye
Chairman
Committee on Appropriations
Subcommittee on Defense
United States Senate
Washington, DC 20510

The Honorable Thad Cochran
Ranking Member
Committee on Appropriations
Subcommittee on Defense
United States Senate
Washington, DC 20510

Dear Senator Inouye and Senator Cochran:

Please accept this amended request letter for consideration in the Fiscal Year 2010 Defense Appropriations Bill. This letter includes updated account information, and updated line and PE numbers, as well as an additional project request. I kindly request the following projects for inclusion in the Fiscal Year 2010 Defense Appropriations Bill:

1. Language Request – Alaska Territorial Guard

Before Alaska became a state in 1959, many Alaska Native men served in the Alaska Territorial Guard to help protect the Territory of Alaska during and after World War II. Under legislation passed by Congress in 2000, the Guardsmen were issued certificates of discharge, becoming available for veterans benefits. In 2008, approximately 25 of these Guardsmen, most in their mid- to late-80s, were issued military retirement credit for the period of their service in the Territorial Guard and they began receiving a modest increase in their retirement pay. However, in January 2009, the Defense Finance and Accounting Service (DFAS) stopped the retirement payments, based on a finding that they were erroneously awarded due to a misinterpretation of the law. These Guardsmen, most of whom live in remote villages in Alaska where the primary livelihood is subsistence hunting and fishing, stand to lose about \$500 a month in sorely needed income. The attached language would benefit the 26 former members of the ATG who were receiving increased retirement payments as a result of their service in the ATG in January 2009 by providing the necessary technical corrections so that DFAS may process the payments. This would also benefit small number of living former members of the ATG who have not yet received discharged certificates if and when those certificates are issues. This is not retroactive. An estimate of the cost of retirement benefits for all of the affected these brave Alaska Natives through 2019 is \$4 million.

2. Project name: Ground Based Midcourse Defense at Missile Field Two at Fort Greely

Request: 81,000,000

Account: RDDW

Line: 75

PE: 0603882C

Suggested Recipient: Missile Defense Agency

Suggested Location: Fort Greely

Purpose/Project Description: Funding will provide MDA the ability to complete construction of seven silos and deploy seven ground-based interceptors (GBIs) at Missile Field Two in Fort Greeley, Alaska, during Fiscal Year 2010. The GMD capability that will be achieved as a result of this funding in Missile Field Two will replace outdated and deteriorating GMDs in Missile Field 1 (which, currently has six GMDs). This funding is an acceleration of MDA's plan for GMD for Fiscal Year 2011. Acceleration of funding for Missile Field Two to Fiscal Year 2010 will leverage investments already made by the taxpayers and work in progress, and will save costs that would otherwise be incurred as a result of stopping work in FY10 and restarting work in FY11. Additionally, by completing seven GMDs in Missile Field 2 to replace deteriorating Missile Field 1, the department will achieve 30 Operational GBIs/GMDs sooner than anticipated thereby decreasing the strategic risk to the US. Additional Information: Per MDA, the cost complete Missile Field 2 in a 7 Silo configuration (SIV and Silos 1-7) is \$81M. This includes cost to complete integration of the SIVs and Silos, integration of the CLEs, completion of Utilidors, completion of the Mechanical Electrical Building and other infrastructure.

3. Project name: Permafrost Tunnel

Request: \$500,000

Account: RDA

Line: 50

PE: 0603728A

Suggested Recipient: US Army Corps of Engineers

Suggested Location: Fox, AK

Purpose/Project Description: US Army Corps of Engineers (USACE) relies on an existing permafrost tunnel, operated by Cold Regions Research and Engineering Facility, for strategic communication and scientific exploration regarding permafrost impacts and infrastructure development in the Arctic supporting northern tier National requirements. The strategic importance of the Arctic to US national defense and homeland security is articulated in national policy directives. DoD requires enhanced understanding of engineering implications of permafrost-related geophysical phenomenology for current and future strategic contingency operations.

- 4. Project name:** National Guard Counterdrug State
Request: \$3,000,000
Account: DI
Line: 10
PE: 0105D
Language: N/A
Suggested Recipient: Alaska National Guard Counterdrug Support Program
Suggested Location: AK

Purpose/Project Description: The Alaska National Guard Counterdrug Support Program provides personnel, equipment and materials to assist federal, state and local law enforcement agencies in the detection, deterrence, and disruption of the production, cultivation, and trafficking of illegal narcotics in Alaska and nationwide. Through the Counterdrug Support Program, vast military resources are provided at no cost to the requesting agency. This program provides tailored intelligence support specific to law enforcement agencies.

- 5. Project Name:** Kodiak Launch Complex
Request: \$35,000,000
Account: DWOEA
Line: Uncertain
PE: OEA-3
Suggested Recipient: State of Alaska
Suggested Location: Kodiak, AK
Project Description: The Kodiak Launch Complex supports rapid response launch

programs addressing increased demands on the use of space-based capabilities to achieve national objectives. This budget request will fund Launch Pad 3 and Rocket motor storage facility construction.

- 6. Project name:** AutoScan Under Vehicle Inspection (UVIS)
Request: \$6,300,000
Account: RDDW
Line: 66
PE: 0603161D8Z
Suggested Recipient: Kachemak Research Development, Inc. (KRD)
Suggested Location: Homer, Alaska

Purpose/Project Description: Product enhancements and beta testing of AutoScan generation 2 and 3 and architecture of an under vehicle inspection system (UVIS). AutoScan is a stationary UVIS that captures an image of the entire undercarriage of vehicles, ranging in size from passenger to semi-trucks. Because of the unique capabilities of AutoScan, vehicles do not need to maintain a constant speed as they travel across the system. This system is a significant advance in providing increased force protection at entry locations in any secure facility or installation.

7. Project name: Expandable Rigid Wall Composite Shelter
Request: \$1,265,660
Account: Research, Development, Navy
Line: 182
PE: 0206623M
Suggested Recipient: Alkan Shelter, LLC
Suggested Location: Fairbanks, Alaska

Purpose/Project Description: The US Marine Corps and other Services now use 1980's technology rigid wall shelters with aluminum skins and a paper honeycomb core. These shelters are poorly insulated, have a limited roof and floor load, do not have ballistic protection, a roof that cannot be sandbagged, are highly subject to corrosion and can only be stacked six-high on ocean-going container ships. Additionally, the Department of Defense (DOD) does not have an EMI-hardened expandable rigid wall shelter. The new carbon fiber hybrid composite expandable shelter will provide a technologically superior structure that will correct the deficiencies of old 1980's technology in the existing shelters. These highly mobile expandable EMI hardened shelters will provide the USMC and DOD with a lightweight, rugged, thermally efficient, environmentally sound, and safer working environment for carrying out their sensitive electronics and calibration repair and maintenance missions.

8. Project name: Future Tactical Truck Carbon Composite Shelter & Retrofit of Current Vehicle Shelters
Request: \$3,600,000
Account: RDA
Line: 13
PE: 0602601A
Suggested Recipient: Alkan Shelter, LLC
Suggested Location: Fairbanks, Alaska

Purpose/Project Description: The US Army has need of a new high-tech family of shelters for the new family of military ground vehicles and an improvement and replacement of existing shelters for the current fleet of vehicles. FY06 Defense Appropriations added \$2.132M for initial RDT&E. A Congressional add-item of \$3.6M is needed for the continuation of Phase 3 (RDT&E) to complete testing and prototype development of composite carbon fiber shelters for the current and future fleet of military tactical vehicles. During Phase 1 and 2 information was collected and analyzed for the shelter and vehicle container requirements for the Modular Logistics Transportation Technology (MLTT) program. Additionally, composite collapsible container, Quadcon shelter, and Shop Equipment Contact Maintenance (SECM) vehicle shelter prototypes were built. Phase 3 will be a follow-on project to build limited development quantities (estimated at 6) of the technically superior lightweight SECM shelter for tactical and field testing and to provide system development and demonstration.

- 9. Project name:** Flight/Hangar Deck Cleaner
Request: \$3,000,000
Account: RDN
Line: 206
PE: 0708011N
Suggested Recipient: Triverus
Suggested Location: Palmer, Alaska

Purpose/Project Description: The Mobile Cleaning Reclaim Recycle Systems (MCRRS) primary role is to restore the coefficient of friction on Aircraft Carrier Non-skid coated surfaces. Cleaning effectiveness has exceeded existing methods by picking up and containing contaminants from the flight decks not recovered on a routine basis. The MCRRS can drastically reduce waste water generation and disposal foot print compared with the manual labor intensive SCRUBEX currently conducted. The MCRRS is a self contained cleaning system currently in development with the Department of the Navy.

- 10. Project name:** Littoral Glider Applied Research
Request: 5,000,000
Account: RDN
Line: 13
PE: 0602747N
Suggested Recipient: Alaska Native Technologies, LLC
Suggested Location: Anchorage, AK

Purpose/Project Description: The project would continue the development, for the Department of the Navy, the sensor design package that is installed on the Littoral Glider, and finalize the testing protocols in advance of the prototype development. The objective of this project phase is to accelerate testing and prototype development so the Littoral Glider can be made available to the Pacific Fleet as soon as possible.

- 11. Project name:** Industrial Supercritical Water Oxidation for Alaska
Request: \$5,000,000
Account: Research, Development, Air Force
Line: 18
PE: 0603112F
Suggested Recipient: Pacific Environmental Corporation (PENCO)
Suggested Location: North Pole, Alaska; Fairbanks North Star Borough, Alaska

Purpose/Project Description: In 2006, PENCO and General Atomics were partially funded by the Air Force to build Alaska's first RCRA-permitted Treatment, Storage, and Disposal Facility (TSDF). The TSDF would utilize industrial Supercritical Water Oxidation (iSCWO), an economical, environmentally friendly technology solution, to treat liquid hazardous wastes generated in Alaska. iSCWO is an ideal technology for processing liquid hazardous wastes and for becoming the primary treatment method for Alaska's first RCRA permitted treatment facility.

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12. Project name: Toxin Guard Bio-Based Sensor

Request: 1,000,000

Account: Research, Development, Army

Line: 18

PE: 0602705A

Suggested Recipient: Port Graham Development Corporation

Suggested Location: Palmer, AK; Port Graham, AK; Anchorage, AK

Purpose/Project Description: The Toxin Guard™ “bio-based” sensor is a method and apparatus of selective biological material detection incorporated onto flexible polymer films for packaging material and is covered under US Patent No. 6,051,388, six other US patents, and a total of 35 patents worldwide. When packaging material is protected with Toxin Guard™ a series of biochemical sensors printed onto the material, a visual signal will alert the consumer or inspector if specific pathogens, spoilage bacteria or contaminants are present. This specific project includes development of antibody based detection of Botulinum bacteria to protect smoked salmon as a food force for military use.

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In addition, I request the following bill language be included:

Continuation of language of Sec. 8016 of the FY09 DOD Appropriations Act:

Section 8016 of the Department of Defense Appropriations Act, 2009 restricts the conversion (under OMB Circular A-76) to contractor performance of DOD activities or functions that are now performed by more than 10 DOD civilian employees. Identical or very similar restrictions have been included in Defense Appropriations bills for at least the last 15 years, and as with section 8016(b)(1) of last year's bill, those provisions have included exemptions for certain classes of contractors, including Native American tribal entities, Alaska Native Corporations (ANCs), and Native Hawaiian Organizations (NHOs). A number of tribal entities, ANCs, and NHOs provide services to DOD and other agencies under government contracts, and although A-76 is now used less frequently than it has in the past, our ANCs would like to continue to be exempted from the restrictions under 8016(a) so that they can take advantage of the government contracting opportunities that may arise where DOD agencies seek a conversion to contract performance.

I request the following continuation of bill language of Sec. 8016 of the FY09 DOD Appropriations Act:

SEC. 8016. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE- None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function.

(b) EXCEPTIONS-

(1) The Department of Defense, without regard to subsection (a) of this section or subsections (a), (b), or (c) of section 2461 of title 10, US Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or
(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, US Code.

(c) TREATMENT OF CONVERSION- The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, US Code, for the competition or outsourcing of commercial activities.

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Amendment of Federal Acquisition Regulation (FAR) Contract Cost Principles:

In addition, I request an amendment of the Federal Acquisition Regulation (FAR) Contract Cost Principles and Procedures rules (48 C.F.R. part 31) to permit Native American contractors (including Alaska Native Corporations, Native Hawaiian Organizations, and tribal entities) to include educational and training expenses directly in support of shareholders/tribal members (e.g., shareholder internship programs, educational scholarships for shareholders, and shareholder employment expense reimbursement) as allowable costs that may be included in the contractors' government contract rates.

The requested language has national significance because it will benefit Native American economic interests all over the US. The current Defense Contract Audit Agency interpretation of the FAR is that Native American contractors may not include educational and training expenses directly in support of their shareholders or tribal members as allowable costs that may be included in their government contract rates. While this interpretation makes sense for other kinds of contractors, it flies in the face of federal law and policy mandating that Alaska Native Corporations and other Native American entities support the economic development and education of their shareholders and tribal members. This proposed amendment to the FAR rules will provide an exception that makes these kinds of expenses for Native American contractors allowable, thus enabling inclusion of costs that Native American firms are duty-bound to pay for.

Please include the following bill language:

SEC. ____ . AMENDMENT TO FEDERAL ACQUISITION REGULATION.

The Administrator of the Office of Federal Procurement Policy shall implement an amendment to the Federal Acquisition Regulation at part 31 of title 48, Code of Federal Regulations, to specify that, with respect to a contract with a Native American entity (including an Alaska Native Corporation, Native Hawaiian Organization, or Indian tribal entity), the costs of education and training of the shareholders or tribal members of that entity shall be allowable costs. For purposes of the preceding sentence, the costs of education and training shall include costs related to internship programs, educational scholarships, and employment training expense reimbursement.

I certify that neither I nor my immediate family has a pecuniary interest in the congressionally directed spending item(s) that I have requested, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate.

If you have any questions, please contact Leslie Ridle from my staff at 224-8485.

Sincerely,



Mark Begich
United States Senator