

**Congress of the United States**  
**Washington, DC 20515**

November 30, 2011

The Honorable Michael B. Donley  
Secretary  
United States Air Force  
1670 Air Force Pentagon  
Washington, DC 20330-1670

Dear Mr. Secretary,

Thank you for taking time earlier this month to discuss the recent exclusion of Hawker-Beechcraft (HBC) from the Light Air Support (LAS) competition, which leaves Brazilian-based Embraer as the sole remaining competitor. During our conversation, you mentioned that the Air Force could not provide HBC a debrief because of the Federal Acquisition Regulation (FAR) governing this matter. Further investigation, however, shows that the United States Air Force (USAF) actually has wide discretion to debrief HBC. We urge you to use this discretion and expeditiously provide HBC a debrief.

As you may be aware, the Air Force mailed the exclusion notice to HBC's physical address, not its mailing address, and HBC was not aware of the letter in time to request a debrief within the specified three-day timeframe. While the FAR does mention a three-day window, 15.505 (3) states, *"If the offeror does not submit a timely request, the offeror need not be given either a preaward or a postaward debriefing."* This provision absolutely and unequivocally provides the USAF flexibility to provide HBC a debrief even if the request falls outside of the specified timeframe. Notwithstanding the Government Accountability Office (GAO)'s ongoing protest, we encourage the USAF to exercise the flexibility found in FAR 15.505 (3) and immediately give HBC a debrief on why it was excluded from the LAS competition. The immediate debrief of HBC is absolutely necessary in order to maintain transparency and ensure the integrity of the acquisition process.

Additionally, because of the misdirected letter, HBC only became aware of the Air Force's decision on November 15, 2011. HBC filed its protest the following week. Given the importance of the LAS procurement and the need to ensure proper oversight of the decision to remove HBC from the competitive range, we believe you should allow the GAO protest to move forward and not attempt to dismiss the protest on a technicality.

Up until the time the USAF excluded HBC from the competition, LAS was a closely fought contest between the Hawker Beechcraft Corporation's AT-6B and Embraer's Super Tucano. Given Hawker Beechcraft's significant Kansas presence, we are keenly aware of the billions of

dollars invested by the U.S. Air Force and Navy fleets in T-6 trainer aircraft built and maintained by HBC. This has allowed Hawker to make a competitive LAS bid that leverages and maximizes the existing logistics, support, and pilot training investment already made by the United States Government. HBC is a trusted supplier to the U.S. military and a valued part of the Kansas economy.

On the other hand, Embraer has a long and documented history of working with rogue regimes, including Iran. In addition, Embraer is the subject of an ongoing Foreign Corrupt Practices Act investigation by the Department of Justice and the Securities and Exchange Commission. Embraer has disclosed that it is under investigation related to transactions in three separate countries, and it is unable to predict the duration, scope or results of the investigation.

On November 4<sup>th</sup>, Embraer Chief Executive Frederico Curado said the investigation itself should not affect its ongoing bid to sell the Super Tucano aircraft to the USAF. Mr. Curado said he expects the government to announce a decision within “weeks” on a contract reportedly valued at \$1.5 billion. “This is a new process for us but as far as we understand it, the investigation won’t have an impact,” he said in a conference call with journalists. “Restrictions in dealings with the U.S. government would come only after a conviction.”

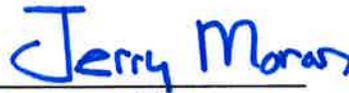
Mr. Secretary, we believe it is important that the Air Force be abundantly transparent and forthright given that an American company is being excluded from a significant competition in favor of a foreign company which is under investigation by our own government. We hope you understand the importance of this situation.

Thanks for your attention to this matter, and we look forward to working with you for the betterment of our nation’s defense.

Sincerely,



Pat Roberts  
United States Senate



Jerry Moran  
United States Senate



Mike Pompeo  
Member of Congress