

September 27, 2024

Chairs, Ranking Members, and Members of:
Committee on Armed Services, U.S. House of Representatives
Committee on Armed Services, U.S. Senate
Defense Subcommittee, Committee of Appropriations, U.S. House of Representatives
Defense Subcommittee, Committee of Appropriations, U.S. Senate

Dear Senators and Representatives:

We, the undersigned free-market policy and taxpayer advocacy organizations, write to express concern over the Missile Defense Agency's (MDA) [decision](#) to end the competition in the Next Generation Interceptor (NGI) program prior to the final critical design review (CDR) phase of the program. The press [previously reported](#) that MDA was considering a \$500 million Fiscal Year 2025 funding reduction that appears to have led to the agency choosing a contractor much earlier in the program's developmental phase.

In our view, this likely led to awarding a contract in that competition without a complete evaluation of which design provided the best promise of performance and value through all phases of the program. As a follow-on to its warnings to "improve oversight of system sustainment and readiness,"¹ a Government Accountability Office (GAO) report from June of 2024 noted that MDA is continuing to face major managerial hazards with NGI. GAO wrote, "MDA disagreed with key aspects of the [DoD's] risk assessment [published in 2022] and, to date, has taken limited steps to mitigate these risks. By not addressing these risks in a timely manner, MDA is increasing the potential for later discovering performance shortfalls that could delay the program."²

In our decades of experience with federal contracting, particularly in the area of weapons systems, terminating this vital process too soon—in the name of saving tax dollars—is a grave mistake which, on net, could prove to be expensive over time. Based on the GAO reports referenced above, we do not appear to be alone in this concern.

The signatories have varying opinions on the role of missile defense in general, and NGI in particular. However, we all share the belief that, given the major risks to taxpayers involved with missile defense, a meticulous and robust design competition is essential to preventing fiscal, as well as operational, failure for NGI. This includes both the developmental and production stages of the NGI program.

According to GAO, since the creation of the Missile Defense Agency in 2002, some \$200 billion has been spent on assorted interceptors, sensors, and other components of the infrastructure designed to protect the homeland from adversaries' ballistic and hypersonic missiles. Many of these expenditures have, in hindsight, resulted in under-performing, behind-schedule, and over-budget weapons systems. As GAO noted in the 2023 report referenced above, "Absent comprehensive guidance, including a responsible oversight entity and a process for prioritizing and addressing sustainment challenges, DOD lacks reasonable assurance that it can sustain MDS [missile defense system] elements and infrastructure to address missile defense threats."³

This unfortunate history, which may yet repeat itself, is one reason why we continue to believe that the NGI competition should proceed through the full CDR phase. In April of 2022, one of the signatories, National Taxpayers Union, published a policy paper on competition in defense acquisition, which included an in-depth discussion of NGI and its failed predecessor, the Redesigned Kill Vehicle (RKV) program.

In that paper, NTU wrote that Congress and MDA must learn from the failures of RKV—and other acquisition programs saddled with developmental delays and cost overruns—by creating competition for NGI between two or more entities through the critical design review portion of the acquisition lifecycle and by testing the program's kill vehicles *before* production, rather than after. As NTU noted,

"If MDA proceeds carefully . . . and maintains robust competition on quality and cost competitiveness through the development stages of NGI, they may just avoid the mistakes of the past while extending greater respect to taxpayers going forward."⁴

Up until MDA's recent abandonment of this wise course, the agency, Congress, and the White House gave taxpayers cause for optimism that NGI would be guided by the cautionary experience of programs that came before it. The House-passed FY 2022 National Defense Authorization Act included language affirming "fly before you buy" and other oversight prin-

¹ U.S. Government Accountability Office. "Missile Defense: DOD Needs to Improve Oversight of System Sustainment and Readiness." GAO-23-105578, Jun 07, 2023.

<https://www.gao.gov/products/gao-23-105578>.

² U.S. Government Accountability Office. "Missile Defense: Next Generation Interceptor Program Should Take Steps to Reduce Risk and Improve Efficiency." GAO-24-106315, June 24, 2024.

³ U.S. Government Accountability Office. "Missile Defense: DOD Needs to Improve Oversight of System Sustainment and Readiness," GAO-23-105578, Jun 07, 2023.

<https://www.gao.gov/products/gao-23-105578>.

⁴ Sepp, Pete, and Lautz, Andrew. "A Run for Our Money – The Latest on Why Competition in Defense Acquisitions Can Save Tax Dollars." NTU, April 12, 2022. Retrieved from: <https://www.ntu.org/publications/detail/a-run-for-our-money-the-latest-on-why-competition-in-defense-acquisitions-can-save-tax-dollars>.

principles for NGI,⁵ which the Administration's FY 2023 budget request largely echoed. Former military officials praised this bipartisan commitment to competition, and its ability to help deliver on-time, on-budget, and value-added capability.⁶

The hard-learned lessons of poorly-managed acquisitions should continue to resonate with MDA and recommend a thorough competition. The decision from the Biden Administration to reduce FY 2025 funding for the F-35 aircraft by 18 percent is a reminder of how inadequately tested weapons systems can lead to major cost overruns and performance problems. Although the basic F-35 design won out over a competitor, key components of the aircraft went into concurrent development while the initial contract was awarded. The result has been one of the most troubled procurements in DoD history.

NGI is at severe risk of this same malady, because competition has been cut short of CDR. The reported \$500 million in savings that might result from this shortcut could be dwarfed by future cost overruns from as-yet unknown technical difficulties that CDR could reveal. In addition, MDA may be on the hook for development contract cancellation penalties, which would further eat into the cost reduction that the government hopes to achieve by this move. All told, MDA's bottom line savings might only amount to the equivalent of one, or at most two, NGI interceptor units. To taxpayers, this benefit-cost equation does not compute; by sacrificing the broad and deep practical knowledge gained from a CDR, the prospect of a poorly-performing program that could take years and billions to fix is unacceptable.

There also remains a lack of transparency about how such a decision to end the NGI competition was made. While it was not a directive from Congress, did the decision lie solely with MDA Director, or was MDA simply being reactive to top-down pressure within the Pentagon? To date, the undersigned organizations have not seen an adequate justification for such a dramatic change of course, or a reckoning with the consequences for the development *and* production of NGI.

DoD's entire procurement infrastructure is in dire need of a top-to-bottom review for opportunities to conserve taxpayer resources. Each of these signatories has made recommendations in various areas of military spending—including shipbuilding, aircraft, personnel, facilities, and other areas of missile defense—that could save taxpayers hundreds of billions of dollars in total. Reducing spending in these areas, rather than shortchanging fulsome competitive review of complex weapons designs, holds much more promise for taxpayers over the longer term.

As far as MDA is concerned, GAO had, as of June 2022, made 23 recommendations for improving transparency, accountability, and program integrity that remained unimplemented.⁷ We respectfully submit that MDA would be better served by addressing these unmet objectives, rather than disinvesting from procurement safeguards such as CDR for the NGI program. Indeed, many of these GAO recommendations pertain to the need for more frequent systems testing and incorporation of results into future systems.

Congress has a critical oversight role here, as well. Given MDA's sudden course change on NGI, the House and Senate Armed Services and Appropriations Committees should consider requiring MDA to provide reports throughout the fiscal year on the status of the NGI program. Is it still the case that a fully deployable NGI can be delivered ahead of the 2028 timeline MDA identified? How quickly can the inventory of NGIs be produced, at what cost, and in what timeframe? Many questions remain.

Thank you for your consideration of our views, and should you wish to discuss this important matter further, we are at your service.

Sincerely,



Pete Sepp, President
National Taxpayers Union



Steve Ellis, President
Taxpayers for Common
Sense



David Williams, President
Taxpayers Protection
Alliance

Cc: Lieutenant General Heath A. Collins, Director

Laura M. DeSimone, Executive Director

Missile Defense Agency

⁵ House Committee on Armed Services. "Subcommittee on Strategic Forces En Bloc #1." September 1, 2021. Retrieved from: <https://docs.house.gov/meetings/AS/AS00/20210901/114012/BILLS-117-HR4350-C000754-Amdt-STREB1.pdf#page=24>.

⁶ Rosenblum, Todd. "How the US can curb the North Korean nuclear threat." Atlantic Council, August 3, 2022. Retrieved from: <https://www.atlanticcouncil.org/blogs/new-atlanticist/how-the-us-can-curb-the-north-korean-nuclear-threat/>.

⁷ U.S. Government Accountability Office. "Missile Defense: Annual Goals Unmet for Deliveries and Testing." GAO-23-106011, May 18, 2023. <https://www.gao.gov/products/gao-23-106011>.