

Holland & Knight Defense Situation Report: January 2023

A monthly roundup of defense policy news

Welcome back to Holland & Knight's monthly defense news update. We are excited to bring you the latest in defense policy, regulatory updates and other significant developments. If you see anything in this report that you would like additional information on, please reach out to authors or members of Holland & Knight's [National Security, Defense and Intelligence Team](#).

LEGISLATIVE UPDATES

General Congressional Update

The Senate of the 118th Congress was sworn in on Jan. 3, 2023, where Democrats will maintain a slim majority. And on Jan. 7, members of the House of Representatives were sworn in after electing Rep. Kevin McCarthy (R-Calif.) as Speaker following 15 rounds of votes. The Democratic majority in the House changed to a slim Republican majority of 222 to 213.

It has been widely reported that McCarthy made several compromises in order to gain sufficient votes to become Speaker. One of the final discussion points during the negotiation was on the level of defense spending in the coming year. Some members believe that defense spending should be held at Fiscal Year (FY) 2022 levels, while many others believe the defense spending must keep pace with inflation and reflect the challenging national security environment.

Congressional Defense Committees Leadership

With the majority change in the House, new leadership on the House Armed Services Committee (HASC) was chosen by the Republican Caucus. Former ranking member Rep. Mike Rogers (R-Ala.) was chosen to become HASC Chairman. Rep. Adam Smith (D-Wash.), who was HASC Chairman last Congress, will become ranking member as the Democrats' top member. While full committee membership has yet to be voted on and confirmed by the Republican conference, the Republican Steering Committee has made recommendations for full committee membership. Rogers will then choose which members will sit atop the committee's seven subcommittees.

In the Senate, Sen. Jack Reed (D-R.I.) will continue to hold the gavel as Chairman of the Senate Armed Services Committee (SASC). Following the retirement of Sen. James Inhofe (R-Okla.), longtime SASC member Sen. Roger Wicker (R-Miss.) has become ranking member of the SASC as the committee's top Republican senator.

The House and Senate Appropriations Subcommittees on Defense have also changed. After Republicans gained a majority in the House, Rep. Ken Calvert (R-Calif.) will become Chair of the House Appropriations Subcommittee on Defense (HAC-D). Rep. Betty McCollum (D-Minn.), the former Chair, will become ranking member of the defense spending subcommittee. As of publication of this newsletter, leadership of the Senate Appropriations Subcommittee on Defense (SAC-D) had not been finalized.

House Votes to Create New Select Committee on China

The full House, through a rules change, created a new Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party. The Committee, which will be **chaired** by Rep. Mike Gallagher (R-Wis.), will investigate and submit policy recommendations on the status of China's economic, technological and security progress, as well as its competition with the U.S. In an op-ed authored by House Speaker Kevin McCarthy (R-Calif.) and Gallagher, the members **presented** their priorities for the new committee, including restoring supply chains and ending critical economic dependencies on China, strengthening the military, and other economic and cybersecurity initiatives. The vote to create the new committee was 365-65, indicating bipartisan consensus to focus on the competition between the U.S. and China.

In addition, McCarthy has stated his desire to make national security a priority with plans to "provide for the common defense" and "restore America's standing on the world stage." Among these priorities, McCarthy has pledged to support U.S. troops, invest in an efficient and effective military, exercise peace through strength with allies to counter increasing global threats, and focus on the competition between the U.S. and China.

Congressional Leadership for the National Security Commission on Emerging Biotechnology

The bipartisan leadership of the SASC and HASC on Dec. 30, 2022, **announced** the full roster of commissioners for the National Security Commission on Emerging Biotechnology, pursuant to Section 1091 of the National Defense Authorization Act (NDAA) for FY 2022.

The National Security Commission on Emerging Biotechnology will conduct a thorough review of how advancements in emerging biotechnology and related technologies will shape current and future activities of the U.S. Department of Defense (DOD). The Commission will provide an interim report to President Joe Biden and the Armed Services Committees within one year and submit a final, unclassified report within two years, including recommendations for action by Congress and the federal government.

Jason Kelly of Ginkgo BioWorks will chair the commission, and Michelle Rozo, former director for technology and national security on the U.S. National Security Council, will serve as vice chair. Members of Congress who were appointed to the Commission are Rep. Stephanie Bice (R-Okla.), Rep. Ro Khanna (D-Calif.), Sen. Alex Padilla (D-Calif.) and Sen. Todd Young (R-Ind.).

DOD and SASC Nominations

Once the 117th Congress ended, all Executive Branch nominations not confirmed by the Senate were sent back to the White House, and the nomination process started over. As such, on Jan. 3, 2023, President Joe Biden **nominated and renominated** roughly 60 people for Senate-confirmed jobs and judicial nominations.

The list includes nominees to serve in key DOD and national security positions, including:

- Brendan Owens to be assistant secretary of Defense for Energy, Installations and Environment
- Ravi Chaudhary to be an Assistant Secretary of the Air Force
- Laura Taylor-Kale to be an Assistant Secretary of Defense for Industrial Base Policy

- Radha Iyengar Plumb to be a Deputy Under Secretary of Defense for Acquisition and Sustainment
- Nickolas Guertin to be an Assistant Secretary of the Navy for Research, Development and Acquisition
- Ronald T. Keohane to be an Assistant Secretary of Defense for Manpower and Reserve Affairs
- Lester Martinez-Lopez to be an Assistant Secretary of Defense for Health Affairs
- Anjali Chaturvedi to be General Counsel at the U.S. Department of Veterans Affairs

EXECUTIVE AND DEPARTMENTAL UPDATES

Ukraine Updates

The Biden Administration on Jan. 6, 2023, [announced](#) a package of \$3.075 billion in additional security assistance for Ukraine. This includes the 29th authorization of a presidential drawdown of security assistance valued at up to \$2.85 billion to meet Ukraine's critical security and defense needs, as well as the U.S. Department of State's announcement of \$225 million in foreign military financing to contribute to the long-term capacity and modernization of Ukraine's military. This package included 50 Bradley infantry fighting vehicles, 100 armored personnel carriers and High Mobility Artillery Rocket Systems (HIMARS), among additional ammunition.

The Bradley infantry fighting vehicles and other armored vehicles and artillery systems will complement the recent commitment of combat vehicles to Ukraine by Germany and France. The DOD also welcomed Germany's commitment to join the U.S. in providing air defense capabilities by supplying one Patriot air defense battery to Ukraine.

On Jan. 19, 2023, the Biden Administration [announced](#) another package valued up to \$2.5 billion, which was the administration's 30th drawdown of equipment from DOD inventories for Ukraine since August 2021. It contains hundreds of armored vehicles, critical support for Ukraine's air defense and other important capabilities.

In total, the U.S. has committed more than \$27.4 billion in security assistance to Ukraine since the beginning of the Biden Administration and more than \$26.7 billion since the beginning of Russia's invasion of Ukraine on Feb. 24, 2022.

Biden Administration Releases Fall 2022 Regulatory Agenda

The Biden Administration on Jan. 4, 2023, [released](#) its Fall 2022 regulatory agenda outlining actions that the administration and agencies plan to issue in the near and long term. There are many administrative actions planned, but here is a sampling of regulations related to defense and federal contracting:

- [Defense Industrial Base \(DIB\) Cybersecurity \(CS\) Activities](#): The current DIB CS program provides cybersecurity threat information to defense contractors with a clearance. DOD is proposing to expand that program to include contractors that "process, store, develop, or transit" controlled unclassified information. A proposed rule is scheduled to be released in April 2023.
- [Cybersecurity Maturity Model Certification \(CMMC\) Program](#): As [discussed](#) in a previous *Holland & Knight Defense Situation Report*, the DOD is proposing to institute a program that will require all

contractors in the DOD supply chain (excluding providers of commercial off-the-shelf products) to obtain a third-party or self-certification of their compliance with stated cybersecurity controls.

■ **Prohibiting the Procurement of Foreign-Made Drones:** The DOD and Defense Federal Acquisition Regulation Supplement (DFARS) are proposed rules to implement Section 848 of the FY 2022 National Defense Authorization Act to prohibit the procurement of foreign-made unmanned aircraft systems by the DOD. Specifically, Section 848 prohibited the DOD from operating, entering into or renewing a contract for the procurement of certain foreign-made drones.

■ **Buy American Act Requirements:** The DOD is proposing to amend the DFARS by implementing the Buy American procurement requirements from President Joe Biden's Jan. 25, 2021, [Executive Order](#), which increases the required percentage of domestic content for end products and construction material.

■ **Subcontracting to Puerto Rican Small Businesses:** The DOD is proposing to amend the Federal Acquisition Regulation (FAR) to implement Section 861 of the FY 2019 NDAA and Section 866 of the FY 2021 NDAA as implemented in the U.S. Small Business Administration's (SBA) final rule published Aug. 19, 2022. The rule is to promote equity in federal procurement and seeks to provide contracting incentives to mentors that subcontract to protégé firms that are Puerto Rican and covered territory businesses. Additionally, this rule implements changes to SBA's regulations to clarify that prime contractors may rely on self-certifications of their subcontractors.

For additional information on specific actions related to cybersecurity, see this [Holland & Knight alert](#).

Marine Corps Industry Day for Next Generation Medium Tactical Truck

The U.S. Marine Corps [scheduled](#) an Industry Day for Feb. 23, 2023, to provide an overview of the Medium Tactical Truck (MTT) competitive prototype to replace equipment from the 1990s. The Marine Corps has been requesting information from industry and seeking research efforts for a next generation of the MTT that is smaller, lighter, fuel-efficient, highly mobile and transportable, as well as digitally enabled and flexible. Once the Office of Naval Research (ONR) finishes its study, the Marine Corps will update its requirements later this year based on industry feedback.

Air Force Innovation Industry Days

AFWERX and the Air Force Installation Mission Support Center (AFIMSC) are [scheduled](#) to sponsor Innovation Industry Days Jan. 24-26, 2023, to educate small businesses, academia and other government officials involved on emerging technologies. This three-day event, which is open to the public, will offer training sessions on navigating the U.S. Air Force's innovation ecosystem and interacting with technology developers, academic institutions, government acquisition professionals and private investors.

During the event, government presenters will provide overviews of contracting, finance and acquisition, as well as offer information on major commands and program executive offices, which play a key role in research and development funding decisions and acquisition of critical technologies. Officials will also explain such funding sources as the Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) programs and the Strategic Funding Increase/Tactical Funding Increase (STRATFI/TACFI) programs.

U.S. Navy Solicits Funding for STEM Education and Workforce Program

Late last year, the ONR [published](#) a funding opportunity announcement on proposals for augmenting existing and/or developing innovation solutions that directly maintain and cultivate a diverse science, technology, engineering and mathematics (STEM) workforce to maintain the Navy and Marine Corps' technological superiority. The goal of proposed efforts must provide solutions that establish, build and/or maintain STEM educational pathways of U.S. citizens directly relevant to the needs of the Navy's current and future workforce.

As the capacity of the Navy's Science and Technology (S&T) workforce is interconnected with the STEM education system, the Navy recognizes the need to support efforts that can jointly improve STEM student outcomes and align educational and outreach efforts with Naval S&T current and future workforce needs. This announcement explicitly encourages programs that improve the capacity of education systems and communities to create impactful STEM educational experiences for students of all ages and the naval-related workforce.

DIU Solicitations

In the past month, the [Defense Innovation Unit](#) (DIU), which aims to leverage new technologies for the U.S. military, published three new solicitations.

The first solicitation seeks to prototype on-site geothermal solutions to address DIU's energy resilience needs through geothermal electricity generation and distribution. Currently, the DOD is reliant on off-site electricity providers to obtain energy in support of its critical mission to ensure national security and is dependent on off-site electricity to conduct its globe-spanning missions via air, land, sea, space and cyberspace. This energy dependence creates mission risks due to disruptions from extreme weather and cybersecurity attacks. Therefore, the DOD is seeking a novel approach using the power of the earth through geothermal energy, which is carbon-free and can provide continuous/reliable power regardless of weather conditions to 1) maintain military mission continuity, and 2) comply with congressional mandate under the 2022 NDAA to provide its critical missions with 99.9 percent reliable energy by 2030.

The second solicitation is for open-source intelligence (OSINT) technique solutions. The U.S. government recognizes that open-source data is an underutilized resource in advancing S&T dominance. As U.S. adversaries march to the forefront of S&T competition, their advancements are visible through their contributions to S&T literature, deal flow, cross-border partnerships and other contextual open-source data points. This exposure leaves much of adversarial S&T development activity abroad open to discovery through OSINT techniques and tactics developed in academia, industry and the private sector. The DOD seeks access to this specialized S&T OSINT expertise in order to develop a complete picture of adversarial S&T and ensure that relevant sources of OSINT information are applied to this challenge. According to DIU, the ideal prototype is envisioned to leverage open-source data, machine learning data science tools and S&T-specific subject matter expertise to identify and characterize S&T development activities by foreign state competitors and adversaries.

The third solicitation is for virtual training for air dominance. To maintain air dominance against the country's peer-adversaries, pilots must be able to train to advanced, next-generation air combat competencies in virtual settings. The DOD is seeking best-in-class commercial immersive training solutions for synthetic training environments and extended-reality training devices to produce the next generation of fast-jet pilots. Prototyping will involve two parallel lines of effort (LOEs). LOE 1 will provide a new mid-tier, mixed-reality training device, and LOE 2 will provide a synthetic training environment that supports fighter/bomber fundamentals (FBF) syllabus events. These LOEs may be executed by a single vendor bringing a comprehensive solution or by multiple vendors working in a teamed arrangement. Vendors should be specific in their solution briefs if they intend to provide solutions for one or both LOEs.

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