



June 6, 2019

The Honorable Richard Shelby  
Chairman  
Committee on Appropriations  
Subcommittee on Defense  
U.S. Senate

The Honorable Dick Durbin  
Ranking Member  
Committee on Appropriations  
Subcommittee on Defense  
U.S. Senate

Dear Chairman Shelby and Ranking Member Durbin:

On behalf of the member companies of the Professional Services Council (PSC), I write to urge the Committee to retain and expand long-standing language in the annual Defense Appropriations bill on Federally Funded Research and Development Centers (FFRDCs). PSC is the voice of the government technology and professional services industry, representing the full range and diversity of the government services sector. We are committed to full and open competition for government contracts.

In the past, FFRDCs have performed valuable and important work for the Department of Defense (DoD) in the unique core areas of responsibility for which they were established. The Competition in Contracting Act (CICA) appropriately permits DoD to grant FFRDCs an exception from competition to perform such unique work. In particular, DoD benefits from FFRDC efforts in basic research for which there is insufficient return available to support private sector investment. DoD also benefits from certain “trusted agent” support from FFRDCs. These are among the legitimate functions for which FFRDCs were established.

However, too often, these same FFRDCs are being awarded sole-source, non-competitive contracts by DoD to perform work that private sector, for-profit U.S. companies can do equally well or better, while saving scarce funds through full and open competition. This violates the intent of CICA and undermines the real and valid purposes for which FFRDCs exist.

This encroachment into legitimate private sector business opportunities by government-protected non-profits hurts small businesses by prohibiting them from even competing. In addition, the cost of FFRDC personnel is much higher. While this might make sense when providing unique talent to DoD, it does not make sense when other companies can do the work with the same proficiency at much lower costs.

It is our understanding that the Defense Department has not requested that Congress increase the ceiling on FFRDC staff years of technical effort (known as STEs), yet the House Defense Appropriations bill includes an increase. PSC does not support this increase and believes it is timely and prudent to continue the current cap on FFRDC STEs. PSC also recommends that Congress direct DoD to review and report to the Appropriations Committees the proper roles of FFRDCs in providing essential, unique support to DoD, particularly as they have expanded their engagement well beyond the core missions they were created to perform. The Defense Department already has such information, and should you choose to request it, they

could provide it to the Committee in time for consideration in advance of the final fiscal year 2020 appropriations.

Congressional actions such as the 2009 Weapon Systems Acquisition Reform Act (also referred to as “WSARA”) have led directly to increases in the number and capabilities of fully independent private sector contractors able to perform high-end systems engineering work without risking the kinds of conflicts of interest that previously existed. Since FFRDCs were never intended to compete with for-profit contractors, this greatly increased private sector capacity should have resulted in a redistribution of work through competition. In turn, this would make additional STEs available for legitimate sole-source FFRDC work, removing the need for any increase in either appropriations or STEs.

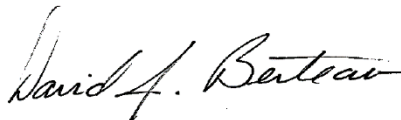
Instead, we have seen the opposite. No such readjustment occurred. On the contrary, FFRDCs continue to use the special advantages of their sole-source, non-competitive protected environment to encroach into technical functions and other work that for-profit contractors can and should be performing for DoD.

Congress acted in the past to constrain this unwarranted encroachment. Most recently, section 8024 of the FY19 Department of Defense Appropriations Conference Report included language to prohibit FFRDCs from certain activities and unauthorized growth. PSC respectfully requests that these provisions remain in the FY20 Defense Appropriations Act and that those provisions be coupled with reductions in STEs from the levels in FY19’s Section 8024(d) and with decreases in appropriations from the levels in Section 8024(f) back to FY18 levels.

Congress directed DoD to focus more on the grave threats from near-peer competitors, including Russia and China. The Committee has increased funding for cutting-edge technologies including among other areas hypersonics, quantum computing, directed energy, biotechnology, cybersecurity, and artificial intelligence. The Under Secretary of Defense for Research and Engineering, Dr. Michael Griffin, has stated directly that these efforts need increased support from the FFRDCs. PSC agrees with that need, but we also feel that the resources to meet that need can easily come from redirecting FFRDC STEs and funding from work that is better done through competitively awarded private sector contracts. In that way, FFRDCs will be able to make the necessary resources available within existing staff and appropriations levels. It is why they exist, and it is what they should be doing.

I greatly appreciate your time and attention to this issue and look forward to continuing to work with your Committee.

Yours respectfully,

A handwritten signature in black ink that reads "David J. Berteau". The signature is written in a cursive, flowing style.

David J. Berteau  
President & CEO