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LAWRENCE J. BRADY
STAFF DIRECTOR

September 17, 2012

Mr. Jeffrey Zients
Acting Director
Office of Management and Budget
1650 Pennsylvania Avenue, NW
Washington, DC 20503

Dear Mr. Zients:

We are writing to request your support for, and input on, H.R. 5891, The Defense Base Act (DBA) Insurance Improvement Act of 2012, which would save taxpayers billions of dollars by transitioning the existing workers' compensation insurance system for overseas government contractors away from private sector insurance companies to a self-insurance program.¹ We are sponsoring this legislation because several audits of the current DBA program have documented enormous unnecessary costs incurred by taxpayers.

The current DBA program requires contractors to purchase workers' compensation insurance from private insurance companies. The DBA program was created in 1941 when the U.S. military made sparing use of civilian contractors and handled only a few hundred workers' compensation claims a year.² When the United States invaded Afghanistan in 2001 and Iraq in 2003, however, the number of civilian contractors sent overseas increased dramatically.

Since the costs of insurance premiums are built into the price of the government's contracts, there is little incentive for contractors to limit insurance costs. As a result, insurance companies have reaped enormous profits from this program.³ Under our proposal, the government would pay directly for medical disability benefits rather than relying on private insurance companies as middlemen, saving the taxpayers billions of dollars as a result.

¹ H.R. 5891 (online at www.gpo.gov/fdsys/pkg/BILLS-112hr5891ih/pdf/BILLS-112hr5891ih.pdf).

² 42 U.S.C. 1651 et seq.

³ See, e.g., Staff Report, House Committee on Oversight and Government Reform, *Supplemental Information on Defense Base Act Insurance Costs* (May 15, 2008) (online at <http://democrats.oversight.house.gov/images/stories/20080515102024.pdf>).

According to a 2009 study by the Department of Defense mandated by Congress, the federal government could save as much as \$250 million a year by transitioning to a self-insurance program.⁴ The study found: “In the long run, the self-insurance alternative may have the greatest potential for minimizing DBA insurance costs, and it has several administrative and compliance advantages as well.”

Similarly, an audit in 2010 by the Army Audit Agency found that a pilot program by the U.S. Army Corps of Engineers to utilize a single private DBA insurance company still charged payment rates that were “excessive” and recommended that “the Army should continue pursuing other methods” of providing workers’ compensation insurance under the DBA program, “such as self-insurance.”⁵

In addition to cost concerns, the current system has failed to ensure that all injured workers obtain health care services, disability payments, or death benefits they and their families deserve. An analysis by *ProPublica* found that private insurance companies had denied about 44% of serious injury claims and about 60% of claims by employees suffering psychological damage, such as post-traumatic stress disorder.⁶ At a hearing held in 2009 to evaluate these findings, injured workers testified that they sometimes had to fight private insurance companies for years to receive the basic medical care to which they were entitled.⁷

After conducting its own audit of the DBA claims process, the Inspector General of the Department of Labor recommended that the Department’s Office of Workers’ Compensation Programs seek legislative changes to the DBA to reflect the current environment of increased use of civilian contractors in war zones.⁸

⁴ Department of Defense, Office of the Deputy Under Secretary of Defense Acquisition and Technology, *Acquisition Strategy for Defense Base Act Insurance: Report to Congress in Response to Section 843 of the National Defense Authorization Act for Fiscal Year 2009* (Sept. 2009) (online at www.acq.osd.mil/dpap/cpic/cp/docs/acq_strategy_defense_base_act_insurance.pdf).

⁵ U.S. Army Audit Agency, *Pilot Program for Defense Base Act Insurance* (Audit Report A-2010-0152-ALL) (Aug. 31, 2010).

⁶ *Injured War Zone Contractors Fight to Get Care from AIG and Other Insurers*, *ProPublica* (Apr. 16, 2009) (online at www.propublica.org/feature/injured-war-zone-contractors-fight-to-get-care-from-AIG-416).

⁷ House Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, *Hearing on After Injury, the Battle Begins: Evaluating Workers’ Compensation for Civilian Contractors in War Zones*, 111th Cong. (June 18, 2009).

⁸ Department of Labor, Office of Inspector General, *OWCP Needs to Improve its Monitoring and Managing of Defense Base Act Claims* (Report Number 03-11-001-04-430) (Mar. 23, 2011) (online at www.oig.dol.gov/public/reports/oa/2011/03-11-001-04-430.pdf).

Mr. Jeffrey Zients
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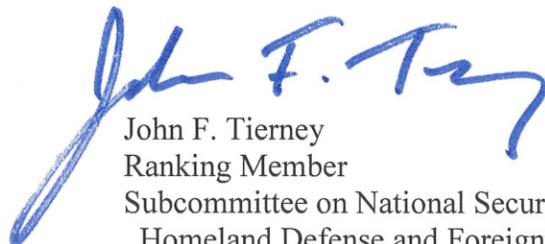
For the reasons outlined above, we request your support for, and technical drafting assistance with, H.R. 5891. It is our understanding that OMB may be evaluating similar options for establishing a self-insurance program in which the government would pay directly for medical and disability benefits rather than utilizing private insurance companies. We request a meeting with you to discuss these proposals, and we look forward to working together to advance these reforms.

If you have any questions about this request, please contact Claire Coleman of the Committee staff at (202) 225-5051. Thank you for your cooperation.

Sincerely,



Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform



John F. Tierney
Ranking Member
Subcommittee on National Security,
Homeland Defense and Foreign Operations

cc: The Honorable Darrell E. Issa, Chairman
Committee on Oversight and Government Reform

The Honorable Jason Chaffetz, Chairman
Subcommittee on National Security, Homeland Defense and Foreign Operations