

## Holland & Knight Defense Situation Report: February 2023

### A monthly roundup of defense policy news

Welcome back to Holland & Knight's monthly defense news update, where we 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

President Joe Biden delivered his second State of the Union address on Feb. 7, 2023. The main message of the president's speech was the importance of "finishing the job" and building upon the investments that Congress and the Biden Administration have made over the past two years. He called on Congress to expand healthcare and mental health benefits to veterans and also announced new opportunities for job training programs for veterans and their families. In his remarks, President Biden also underscored America's commitment to delivering aid to Ukraine and a commitment to investing in American innovation and the industrial base so that America can lessen its dependence on foreign nations.

According to reports, President Biden is expected to release his Fiscal Year (FY) 2024 budget request to Congress on March 9, 2023. In an interview, U.S. Department of Defense (DOD) Comptroller Michael McCord said that the president's budget will be larger than what Congress provided last year. As you may recall, Congress appropriated \$858 billion in national defense funding, which was \$45 billion more than President Biden requested for FY 2022. Of the total funding, \$817 billion went to the DOD, and billions more went to other national security programming.

However, there remains a significant amount of uncertainty related to government funding, as Congress must first address the nation's debt limit.

#### Congressional Defense Committees Leadership

With the change in majority 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 chair. Rep. Adam Smith (D-Wash.), who was HASC chair last Congress, will become Ranking Member as the Democrats' top member. After the Republican and Democratic Steering Committees made recommendations for full committee membership, the chairs and ranking members of the subcommittees were selected.

A list of the HASC Subcommittees and their leadership is below. In addition to this list, Rogers announced that Rep. Rob Wittman (R-Va.) will serve as the committee's vice chair. Rogers also announced that his committee will create a special panel to be chaired by Rep. Don Bacon (R-Neb.) to oversee service member and family quality of life issues. View a [full list of HASC members and subcommittee assignments](#).



Subcommittee	Chair	Ranking Member
Cyber, Innovative Technologies and Information Systems	Rep. Mike Gallagher (R-Wis.)	Rep. Ro Khanna (D-Calif.)
Intelligence and Special Operations	Rep. Jack Bergman (R-Mich.)	Rep. Ruben Gallego (D-Ariz.)
Military Personnel	Rep. Jim Banks (R-Ind.)	Rep. Andy Kim (D-N.J.)
Readiness	Rep. Michael Waltz (R-Fla.)	Rep. John Garamendi (D-Calif.)
Seapower and Projection Forces	Rep. Trent Kelly (R-Miss.)	Rep. Joe Courtney (D-Conn.)
Strategic Forces	Rep. Doug Lamborn (R-Colo.)	Rep. Seth Moulton (D-Mass.)
Tactical Air and Land Forces	Rep. Rob Wittman (R-Va.)	Rep. Donald Norcross (D-N.J.)

On the Senate side, Sen. Jack Reed (D-R.I.) will continue to hold the gavel as chair of the Senate Armed Services Committee (SASC). After the retirement of Sen. James Inhofe (R-Okla.), longtime SASC member Sen. Roger Wicker (R-Miss.) has become Ranking Member of the SASC, the committee's top Republican senator. Below is a list of SASC Subcommittees and their leadership. View a [full list of members](#).

Subcommittee	Chair	Ranking Member
Airland	Sen. Mark Kelly (D-Ariz.)	Sen. Tom Cotton (R-Ark.)
Cybersecurity	Sen. Joe Manchin (D-W.Va.)	Sen. Mike Rounds (R-S.D.)
Emerging Threats and Capabilities	Sen. Kirsten Gillibrand (D-N.Y.)	Sen. Joni Ernst (R-Iowa)
Personnel	Sen. Elizabeth Warren (D-Mass.)	Sen. Rick Scott (R-Fla.)
Readiness and Management Support	Sen. Mazie Hirono (D-Hawaii)	Sen. Dan Sullivan (R-Alaska)
Seapower	Sen. Tim Kaine (D-Va.)	Sen. Kevin Cramer (R-N.D.)
Strategic Forces	Sen. Angus King (I-Maine)	Sen. Deb Fischer (R-Neb.)

The House and Senate Appropriations Subcommittees on Defense have also changed. After Republicans gained a majority in the House, Rep. Ken Calvert (R-Calif.) became chair of the House Appropriations Subcommittee on Defense (HAC-D). Rep. Betty McCollum (D-Minn.), the former chair, became Ranking Member of the Defense Spending Subcommittee. Leadership of the Senate Appropriations Subcommittee on Defense (SAC-D) will continue to feature Sen. Jon Tester (D-Mont.) as chair. Following the retirement of Sen. Richard Shelby (R-Ala.), Sen. Susan Collins (R-Maine) became Ranking Member of the Defense Appropriations Subcommittee while simultaneously serving as the top Republican of the full Senate Appropriations Committee.

Finally, as [reported](#) in last month's *Holland & Knight Defense Situation Report*, the House of Representatives voted on a wide bipartisan basis to create a new Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party. While it was previously announced that Rep. Mike Gallagher (R-Wis.) will chair the Select Committee, we learned that Rep. Raja Krishnamoorthi (D-Ill.) was [appointed](#) to serve as the Committee's Ranking Member, the top Democrat. The committee will investigate and submit policy recommendations on the status of strengthening U.S. competitiveness with regard to restoring American supply chains, ending critical economic dependencies on China, strengthening the military, and other economic and cybersecurity initiatives. View the Republicans and Democrats on this Select Committee as reported by [House Speaker Kevin McCarthy](#) and [Minority Leader Hakeem Jeffries](#).

## 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.

In late January, following publication of the January *Holland & Knight Defense Situation Report*, the Senate confirmed Brendan Owens to be the Assistant Secretary of Defense for Energy, Installations and Environment. On Feb. 16, Lester Martinez-Lopez was confirmed by the Senate to become Assistant Secretary of Defense for Health Affairs.

Though additional nominations remain pending on the Senate floor and within the SASC, threats from both sides of the aisle may derail some nominations due to procedural holds over various DOD decisions. For example, the two Democratic senators, Michael Bennet and John Hickenlooper, are protesting the decision to base the U.S. Space Command in Alabama rather than their home state of Colorado, and Sen. Dan Sullivan (R-Alaska) will once again object over certain nominations due to the Biden Administration's holdup of a mining access project in his home state.

Various nominations to serve in key DOD and national security positions include:

- Ravi Chaudhary to be an Assistant Secretary of the Air Force
- Laura Taylor-Kale to be Assistant Secretary of Defense for Industrial Base Policy
- Radha Iyengar Plumb to be Deputy Under Secretary of Defense for Acquisition and Sustainment
- Nickolas Guertin to be Assistant Secretary of the Navy for Research, Development and Acquisition
- Ronald T. Keohane to be Assistant Secretary of Defense for Manpower and Reserve Affairs
- Anjali Chaturvedi to be General Counsel at the U.S. Department of Veterans Affairs

## HASC Priorities and Hearings

As the new House Republican majority begins its work, HASC Chairman Mike Rogers held initial hearings, signaling his priorities for the committee and its work during the 118th Congress. At an organizational hearing, which formally set the rules and procedures of the committee, he [committed](#) to continuing the tradition of bipartisanship, which has helped the National Defense Authorization Act (NDAA) pass 62 consecutive times. One of his priorities is examine threats the U.S. faces from China and how to best prepare the military to deter and defeat them. Relatedly, the committee will also prioritize strengthening the U.S. defense industrial base so that the country is prepared for future conflict, as well as bolstering the national defense and providing for U.S. armed forces.

With these themes in mind, the committee on Feb. 7, 2023, [received](#) testimony at its first hearing of the year from nongovernmental witnesses on the pressing threat of China to U.S. national defense. The following day, the HASC held a hearing and [received](#) testimony from contractor trade associations regarding the state of the U.S. defense industrial base.

## EXECUTIVE AND DEPARTMENTAL UPDATES

### Ukraine Updates

Marking the one-year anniversary of the war in Ukraine, President Joe Biden visited Kyiv and met with Ukrainian President Volodymyr Zelenskyy. While in Ukraine, he addressed the needs that the country continues to face and committed American military, economic and humanitarian support from Congress and the American people, including industry.

As such, since publication of the January *Holland & Knight Defense Situation Report*, the Biden Administration [announced](#) the procurement of Abrams tanks for Ukraine via the Ukraine Security Assistance Initiative (USAI). On Feb. 3, 2023, the administration then [announced](#) another USAI package worth \$1.75 billion, as well as a presidential drawdown of security assistance valued at up to \$425 million. On Feb. 20, 2023, the administration [announced](#) another drawdown of equipment from DOD inventories valued at up to \$460 million. Finally, on the one-year anniversary of the war in Ukraine, the administration [announced](#) a \$2 billion USAI package. These USAI packages underscore the continued U.S. commitment to building the capacity of Ukraine's armed forces into the future. Unlike presidential drawdown authority (PDA), which the DOD has continued to leverage to deliver equipment to Ukraine from DOD stocks, USAI is an authority under which the U.S. procures new capabilities. The presidential drawdowns are the 31st and 32nd for equipment from DOD inventories for Ukraine that the Biden Administration has authorized since August 2021.

The USAI packages valued at \$400 million, \$1.75 billion and \$2 billion represent the beginning of a contracting process to provide additional capabilities to Ukraine. The first package includes 31 Abrams tanks with 120mm rounds and other ammunition, eight tactical vehicles, and other support equipment and trainings. Alongside the battalion of Abrams tanks provided by the U.S., a European consortium is committing to provide two battalions of Leopard tanks to Ukraine in the near term. The second package included Javelin anti-tank missiles, artillery ammunition, and conventional and long-range rockets for U.S.-provided HIMARS. The third package included additional unmanned aerial systems (UAS), counter-UAS and critical ammunition stocks for artillery and precision-fire capabilities.

In total, the U.S. has committed more than \$30 billion in security assistance to Ukraine since the beginning of the Biden Administration and more than \$29.3 billion since the beginning of Russia's invasion of Ukraine on Feb. 24, 2022.

### DOD Releases Small Business Strategy

The DOD [announced](#) the release of its [Small Business Strategy](#), which seeks to promote a strong, dynamic and robust small business industrial base by focusing on reducing barriers to entry, increasing set-aside competitions and leveraging programs to grow the industrial base. Small businesses make up 99.9 percent of all U.S. businesses and 73 percent of companies in the defense industrial base and, last year, small businesses were awarded more than 25 percent of all DOD prime contracts.

As part of the DOD's efforts to strengthen support of small businesses, this strategy focuses on stepping up engagement with industry, including providing more tools and resources. This engagement and training effort will be facilitated by the DOD's 96 APEX Accelerators located across the country. Formerly known as Procurement Technical Assistance Centers, they serve as a resource for small businesses to increase their readiness, help them find opportunities to do business with the DOD and accelerate their insertion into the defense marketplace.

## **DOD Announces Update to Autonomy in Weapons Systems**

The DOD [announced](#) an update to its directive governing Autonomy in Weapons systems, which governs the development and fielding of autonomous and semi-autonomous weapon systems. Though the core of the directive, No. 3000.09, remains unchanged, the DOD updated it due to advances in technology, changes in the structure of the department and updates in the security environment. Changes to the directive will still require extensive testing, reviews and management oversight for any weapon systems but now require review by senior officials prior to the development and deployment of any autonomous weapon systems. Though the change is minor, the DOD believes this clarification will make its autonomous and semi-autonomous weapon systems deployment more lawful. The DOD will continue to study advancements in related technology, including artificial intelligence. As these technologies mature, DOD officials recognize the importance of updating DOD policy.

## **DIU Releases FY 2022 Year in Review**

The [Defense Innovation Unit \(DIU\)](#), which focuses on leveraging technology for the U.S. military from six areas – artificial intelligence/machine learning, autonomy, cyber, energy, human systems and space – [released](#) its FY 2022 annual report. The report largely shows that DOD modernization relies on rapidly leveraging commercial technology.

In 2022, DIU assisted in transitioning 17 commercial solutions to DOD users. At DIU, transitioning means going from when a prototype successfully completes and results in a production or service contract with a DOD or U.S. government partner. This process typically takes 12 to 24 months, which is considered extremely fast in the world of government acquisition. Since 2016, a total of 52 projects have transitioned to the DOD, said acting DIU Director Mike Madsen. In FY 2022, 86 percent of awards were nontraditional, and 73 percent were awarded to small businesses, with 33 percent first-time DOD vendors.

## **DIU Solicitations**

In the past month, the DIU published six new solicitations. The first is for HyCAT: Transformative Technologies (HyCAT II). Hypersonic vehicle technology has evolved by leveraging the same infrastructure used for missile development and testing. The slow pace of hypersonic research and development has resulted in more expensive and less effective systems. Current hypersonic vehicles incorporate lower performance legacy subsystems that may not represent the current state of the art in an effort to avoid the high cost and long timelines of developmental test and validation. In 2022, DIU launched the Hypersonic and High-Cadence Airborne Testing Capabilities (HyCAT) Commercial Solutions Opening (CSO). This project aims to address this problem by providing low-cost, rapid and reusable hypersonic testing platforms. As a continuation of the HyCAT project, this second CSO aims to support prototype testing of new hypersonic technologies in the relevant environment by leveraging the modular payload capability being developed under the HyCAT I CSO.

The second solicitation is for an improved waste disposal system as the DOD seeks commercially proven hardware and software solutions for both expeditionary and fixed waste disposal systems capable of generating usable power for the warfighter. Current alternative methods of disposal at the point of generation are inefficient, complex and not scalable or suitable for all environments and types of waste. Further, as the power needs in the field and at domestic facilities continue to grow, so, too, does the need for additional energy sources. Alternative disposal systems in use today do not optimally generate energy from waste. Since the early 1990s, much of the waste the DOD generates – including hazardous and medical waste – has been disposed of through open air burn pits, which can be harmful to both people and the local environment. In 2010, the NDAA prohibited the disposal of waste in open air burn pits, except in circumstances in which no alternative disposal method is feasible. Conversely, transporting waste from point of generation to a qualified disposal site creates excessive costs and an incalculable force protection risk.

The third solicitation is for a family of advanced standard batteries (FAStBat). As the need for reliable energy storage technologies grows, the DOD is facing complex supply chain challenges, sole-source dependency concerns and high costs that contribute to management challenges for batteries. Establishing access to reliable sources of rechargeable batteries and supporting the growth of the domestic manufacturing capacity is critical to the defense industrial base. As such, the DOD is seeking high-capacity, commercially relevant and rechargeable battery cells that meet the performance needs of a variety of military battery packs. By coordinating this and other battery efforts, the DOD will strengthen the battery industrial base through aggregation and standardization of demand and support the growth of domestic manufacturing capacity for rechargeable battery cells and packs.

The fourth solicitation is for small form factor high-frequency direction finding (HF DF) antenna. HF DF antenna arrays typically require hundreds of linear feet of real estate to achieve high accuracy. However, most of the DOD's collection platforms do not have sufficient space to install a large antenna array. As a result, the DOD cannot provide necessary force protection and targeting mission for combatant commands. Existing smaller HF DF antenna arrays result in excessive errors, making targeting difficult for combatant commands, especially at long range. The DOD seeks small form factor HF DF antennas that can meet specified physical and accuracy requirements for use on various DOD collection platforms.

The fifth solicitation is for drag reduction technologies for legacy aircraft. The DOD relies upon airborne logistics to support global military operations. Airlift and air-to-air refueling is critical to moving and sustaining operations that will ensure mission success. However, such tactics are costly due to the amount of fuel required to execute the mission. The U.S. Air Force (USAF) coordinates and executes the majority of airlift logistics for joint operations. A reduction in the amount of fuel required to operate these aircraft in their current method would yield significant cost savings and augment the USAF's overall capability and capacity. The DOD is seeking mature, commercially viable technologies to reduce fuel costs and fuel supply chain risks, while improving operational capability and on-station times for the current fleet of airborne logistic aircraft.

The final solicitation is for digital engineering and manufacturing of composite structures. The DOD often relies on expensive, bespoke systems and components that are difficult to repair or replace. Often, uniquely designed replacement parts take too long to develop and acquire, and the original equipment manufacturer (OEM) or supply chain sometimes is unavailable, creating challenges for system sustainment. The DOD seeks commercial solutions that leverage interoperable digital twin technologies to rapidly design, manufacture and monitor the health of large, molded composite structures. The service developed in the prototyping effort is intended to be an interoperable set of engineering and manufacturing processes.



## DOD and NTIA Launch 2023 5G Challenge for Open RAN

The FutureG & 5G Office of the Under Secretary of Defense for Research and Engineering is [launching](#) the 2023 5G Challenge. Led by the Institute for Telecommunication Sciences division of the National Telecommunications and Information Administration (NTIA) from the U.S. Department of Commerce, the [5G Challenge](#) will accelerate the adoption of open interfaces, interoperable components and multi-vendor solutions toward the development of an open 5G ecosystem.

Challenge entrants will compete for up to \$7 million in cash and prizes. The 5G Challenge will help establish the deployment readiness of Open RAN systems – an important factor in future decisions about updating communications infrastructure on DOD facilities under the base modernization initiatives in the FY 2023 NDAA. The military services will provide plans for such modernization this year and prepare to undertake them over the next three years at hundreds of DOD facilities.

The 2023 5G Challenge: Advanced Interoperability competition is open for applications at [Challenge.gov](#). Applications must be submitted by 7 p.m. ET on March 1, 2023.

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