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August 19, 2010

The Honorable Joseph R. Biden, Jr.
Vice President
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Vice President:

Thank you for meeting with Senators Lindsey Graham, Joe Lieberman and me and for following up on the meeting in writing. As I indicated in our meeting, my purpose is not to delay consideration of New START or redefine the basic goals of the modernization program. It is, rather, to do what we can to ensure adequate and timely funding for the modernization program. To that end, I have suggested, and discussed with you, several specific and achievable steps that will, if implemented, also demonstrate a mutual commitment to successful completion of the program outlined in the section 1251 report.

As to FY2011 funding, we need to rectify the \$99 million shortfall in the House Subcommittee mark. The prior year offsets identified by the House Committee will have to be restored as will the B61 LEP reprogramming funds that were borrowed from the modernization of the Kansas City Plant. In addition, NNSA will need approximately \$60 million to recover from flooding at Pantex, and there will have to be some resolution of the \$64 million shortfall in contractor pensions that NNSA recently sought to reprogram – if the reprogramming is approved by Congress, clearly those funds will need to be restored. These are four immediate funding problems that must be addressed in a continuing resolution before October 1 and for the remainder of FY2011. If the Administration has a plan to deal with these issues, it would be helpful if you could share it with us. If there is no plan, you can appreciate our anxiety that this is an indication of a lack of seriousness about achieving the goals of the 1251 program on a timely basis. It is not acceptable for the program to fall behind in its first year.

This leads to the second and even more serious concern about FY2012 and the remainder of the 10-plus-year plan. Your letter notes that the 10-year projection of cost is only that, and that it is premature to adjust the baseline or to present a final budget for the two most costly facilities. I do not disagree. What I respectfully request, however, is that the 1251 plan be updated as more refined data permit and in view of the reality that it is already clear that original cost projections for the Chemistry Metallurgy Research Replacement (CMRR) facility and the Uranium Processing Facility (UPF) are woefully understated; this is the inescapable conclusion of the recent trips, which you mentioned in your letter, that I have taken to key NNSA facilities. According to the lab directors and plant managers, and Administration personnel, by the end of this September, we will know the “should cost” projections for the CMRR and the UPF – the two most expensive capital projects in the modernization of the nuclear weapons enterprise.

While I do not suggest these will be the final costs, I am reliably informed that they will be far more realistic projections, by definition, of the facility costs than the Administration has thus far factored into its budget planning documents (e.g., the 1251 plan of the FY11 FYNBP). Failure to acknowledge this now and provide updates as to current BUT NOT FINAL budget projections raises questions about the Administration's long-term commitment to the program and risks negative reaction from Congress when the true (and significantly larger) costs are sent up for appropriation.

Not only will congressional visibility into this ongoing process avoid that problem, I believe seeing a more realistic projection is key to the Senate's confidence that the Administration is fully committed to the full modernization program. And since these projects are the most conducive to being paid for up front, the sooner these "should cost" projections are available, the sooner the Administration and Congress can determine whether and how to pay for them in view of the significant benefits that guaranteed funding and accelerated engineering and construction bring to the nuclear weapons enterprise and the taxpayer. It is neither necessary nor wise to wait two more years as you suggest.

Lastly, while I have heard that elements of the 1251 plan will be revised as circumstances warrant, I haven't seen any indication that that is being done. As you recall, I recommended 12 critical terms of reference for a more thorough 1251 plan to you and Senators Kerry and Lugar in a memo on July 28th, and asked that an update of that plan be done to inform the FY12 budget and to share with the Senate before it is asked to ratify the New START treaty. I hope this is being done.

None of the matters I have discussed should delay consideration of START. I appreciate your discussion of Russian attitudes and would simply reiterate that, the sooner concerns I've raised are addressed, the easier it will be to conclude START consideration. I suggest our staffs meet before Congress returns to session, and I assure you of my intention to deal with these issues constructively.

Sincerely,



JON KYL
United States Senator

cc: Senator Joseph Lieberman
Senator Lindsey Graham