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SMAC Legislative Report

OF CALIFORNIA

News from the Small Manufacturers Association of California

A compilation of news and commentary on the recent actions of California legislators and bureaucrats in Sacramento

CONGRESSIONAL LEADER EXPLAINS AMERICA'S NEED FOR NEW LONG RANGE STRIKE BOMBER

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Congressman **J. Randy Forbes**,
Chairman, House Armed Services Subcommittee on
Seapower & Projection Forces.

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Andy Reynolds, Northrop Grumman vice president,
Global manufacturing and Palmdale site manager. "

By **Tom Martin**
SMAC Executive Director
& Legislative Chairman

As the Pentagon prepares to announce the winner of one of its most significant contracts since the F-35 contract award in 2001 — the Long Range Strike Bomber — it faces a myriad of challenges and very high expectations, according to Rep. J. Randy Forbes, Chairman, and House Armed Services Subcommittee on Seapower & Projection Forces.

The U.S. Air Force is expected to announce a contract award for the development and production of its secretive next-generation Long Range Strike Bomber (LRS-B) soon.

A Boeing-Lockheed Martin team is competing against Northrop Grumman, builder of the B-2 bomber, for the \$25 billion prize.

PROJECTED COST \$550 MILLION EACH

A request for proposal to develop the aircraft was issued on 9 July 2014, with a contract expected to be awarded in 2015. The Air Force plans to purchase 80–100 LRS-B aircraft at a cost of \$550 million each, the 2010 prices. Northrop Grumman and a team of Boeing and Lockheed Martin are competing for the development contract

Experts say rumors have been swirling for weeks that Northrop Grumman has won the LRS-B contract — but no matter how many usually reliable sources we

have heard this from, those reports remain rumors until the decision is formally announced..

This decision is being eagerly awaited by many interested parties. For strategists and proponents of air power, the LRS-B program promises to reinvigorate long-range surveillance and strike capabilities that have been dwindling for decades.

For industry, the award to one of two teams competing for the massive contract holds the potential to reshape the aerospace sector. And for fiscal watchdogs, the new bomber threatens to join the litany of aircraft entering service late-to-need and over-budget.

For all these reasons, the LRS-B program deserves close attention from Congress, and especially the House Armed Services Committee's Seapower and Projection forces subcommittee, which oversees Air Force bomber, tanker, and airlift programs, Forbes contends.

"As a classified, unconventionally-managed program planned to cost an average of \$550 million (in 2010 dollars) per aircraft, the program warrants our strict scrutiny," Congressman Forbes said. "As a top Air Force and Defense-wide acquisition priority and a critically-needed platform for projecting American power over the next forty years or longer, it also deserves Congress' strong support," Forbes said.

CENTRAL ELEMENT OF U.S. AIR POWER

Long-range bomber aircraft have been a central element of America's power projection forces since the Second World War. But after several decades of relative neglect, the Air Force's bomber fleet is now the smallest and oldest it has ever been. Overall, our 159 bombers have an average age of 39 years—older than most of their pilots—and less than half of the force is "mission capable" in at least one mission area.

Of these aircraft, only 20 B-2s are "stealth bombers" capable of penetrating the integrated air defense systems being fielded (and exported abroad) by countries like Russia and China. Our 139 older B-1 and B-52 bombers are best suited for operating in low-threat environments and for launching standoff missile strikes. While newer multi-role fighters like the F-22 and F-35

may be able to penetrate modern defenses, they lack the range, endurance, and payload needed to operate from bases outside the range of enemy missiles and create a risk the larger and more challenging target sets our military is likely to face in the future.

As a result, the United States has a serious shortfall in long-range penetrating strike capability and capacity that affects our security in several important ways.

First, by limiting our ability to respond promptly to aggression and hold at risk high-value targets (such as enemy leaders or weapons of mass destruction) inside defended airspace, it emboldens our strategic competitors and undermines deterrence.

Second, by the same token, it undermines the confidence of our allies and partners that we can respond rapidly and decisively if and when they are attacked.

Third, it forces short-range U.S. air forces to operate from bases within the range of enemy missiles and other threats, playing to the strengths of our competitors' anti-access strategies and imposing upon the United States the high costs of countering them.

Fortunately, the Air Force's long range strike program appears to be on track to deliver a next-generation aircraft that will play a key role in counter anti-access strategies and sustaining the United States' ability to project power into contested environments for decades to come.

LEVERAGING "OFF-THE-SHELF" PARTS

"That last point is key," Forbes said. "Although the LRS-B will not be inexpensive by any taxpayer's standards, the Air Force appears to be wisely leveraging 'off-the-shelf' components designed for other aircraft and 'open' architectures and mission systems that can be easily upgraded. These approaches should help the winning vendor deliver and sustain the aircraft we must have at the lowest possible cost.

Keeping that per-unit cost to a minimum will be the shared task of Congress and Air Force leadership in the years ahead. Stability in the bomber's requirements, rate of production, and total procurement quantity will be needed to keep acquisition costs down and sustain public support for the program.

Congress, for its part, must commit to protecting the nascent program from the impacts of continuing resolution and other fluctuations in the budget. The Air Force, in turn, must manage the expectations of Congress and the American people by accurately estimating and reporting the costs, as well as the benefits, of the LRS-B program.

"America's new bomber will not be cheap, but it is a worthwhile and strategically-critical investment. Our nation needs a new bomber, and that bomber deserves

Congress' close scrutiny, as well as its strong support," Forbes concluded

NORTHROP PALMDALE 1ST AEROSPACE WINNER OF THE 'ZERO WASTE' AWARD

Northrop Grumman Corporation announced that its Palmdale Aircraft Integration Center of Excellence (PAI CoE), within its Aerospace Systems sector, is the first aerospace production and manufacturing facility in the U.S. to receive the Silver level Zero Waste certification from the U.S. Zero Waste Business Council (USZWBC).

This award is significant in that it is the first aerospace production and manufacturing site in the U.S. to receive this honor.

This achievement signifies that the Palmdale facility has successfully diverted over 90 percent of its waste from landfill, incineration and the environment. The Zero Waste program has a goal to maximize the recycling of all discarded materials for reuse purposes.

This achievement supports Northrop Grumman's 2020 environmental sustainability goals, specifically the company's commitment to achieve a solid waste diversion rate of 70 percent by year-end 2020.

"Measuring up to the highest standards and going through one of the toughest certification programs in the country can be challenging, but Northrop Grumman rose to the occasion," said Stephanie Barger, founder and executive director of USZWBC. "We see this as a leap forward for Zero Waste, as we're looking for businesses to lead the way, especially as influencers in the government and haulers. Northrop Grumman is one of those influencers and we look forward to their continual progress toward even higher Zero Waste standards in the future."

COMMITTED TO ENVIRONMENTAL LEADERSHIP

Northrop Grumman said it is committed to environmental sustainability leadership. Last year the company reduced its greenhouse gas intensity (metric tonnes of carbon dioxide equivalent per million dollars in sales) by 26.2 percent from 2008 levels.

The CDP S&P 500 Climate Change Report 2014 ranked Northrop Grumman in the top one percent of reporting companies and a leading aerospace and defense company for climate change strategy and management, emissions reductions and risk management processes for the second consecutive year.

The PAI CoE's site wide awareness efforts and Zero Waste initiative resulted in a 70 percent reduction of the site's waste management costs and more than 90 percent solid waste diversion from landfills. Since initiating this project in 2012, the estimated savings from

waste reduction, reuse purposes and landfill avoidance is \$4 million.

"This is a prime example of the exemplary performance and talent that we have at the Palmdale site," said Andy Reynolds, vice president, global manufacturing and Palmdale site manager, Northrop Grumman. "As the largest manufacturer in the Antelope Valley, it is our duty to remain cognizant of what we can do for our environment."

Northrop Grumman is a leading global security company providing innovative systems, products and solutions in unmanned systems, cyber, C4ISR, and logistics and modernization to government and commercial customers worldwide.

KNOW THE LAW

JURY AWARDS OVER \$17 MILLION FOR SEXUAL HARASSMENT AND RETALIATION

The U.S. Equal Employment Opportunity Commission (EEOC) has announced a federal jury has returned a unanimous verdict awarding a total of \$17,425,000 to five former female employees of Moreno Farms, Inc., a produce growing and packing operation in Felda, Fla., who suffered sexual harassment and retaliation.

According to EEOC's suit, two sons of the owner of Moreno Farms and a third male supervisor engaged in graphic acts of sexual harassment against female workers in Moreno Farms' packaging house, including regular groping and propositioning, threatening female employees with termination if they refused the supervisors' sexual advances, and attempting to rape, and raping, multiple female employees.

All five women were ultimately fired for opposing the three men's sexual harassment.

EEOC filed suit after first attempting to reach a pre-litigation settlement through its conciliation process.

"EEOC has been at the forefront of combating employment discrimination," said EEOC General Counsel David Lopez. "We are committed to ensuring that all immigrant and vulnerable populations are protected by the anti-discrimination laws, and this is the latest in a number of successful cases that we have litigated to stop these discriminatory practices."

This case was filed on Aug. 29, 2014 along with another, separate lawsuit charging an agricultural nursery with sexual harassment of a female worker at the hands of her supervisors. These lawsuits sought to raise awareness of, and underscore EEOC's longstanding nationwide commitment to, addressing the plight of this vulnerable segment of workers, who are often reluctant or unable to exercise their rights under equal employment laws.

On Sept. 10, the jury returned a unanimous verdict in the Moreno Farms case, awarding \$2,425,000 in compensatory damages and \$15 million in punitive damages to the five female farmworkers, in the EEOC's suit.

Beatriz André, EEOC's lead attorney in the case, said, "Having long been silenced by shame and fear, this trial offered these five women the opportunity to give voice publicly to their experiences and their desire for justice."

The trial was limited to damages, as the corporate defendant defaulted and did not participate in the trial. The court has also reserved jurisdiction to decide whether these damages awarded for violations of Title VII should be reduced to statutory damage caps.

EEOC is responsible for enforcing federal laws prohibiting employment discrimination.

TARGET TO PAY \$2.8 MILLION FOR DISCRIMINATORY HIRING TESTS

Fortune Com Writer Claire Zillman reports Equal Employment Opportunity Commission (EEOC) investigators have found Target's former employment tests discriminated on the basis of race and sex and violated the Americans with Disabilities Act. The EEOC said some of the tests that Target once used to assess job applicants were big no-nos, Zillman wrote.

The agency has announced that the retail giant has agreed to pay \$2.8 million to resolve charges related to the discriminatory practices, which Target used nationwide and the EEOC first discovered in 2006, according to Julie Schmid, acting director of the EEOC's office in Minneapolis.

In a statement, Target spokesperson Molly Snyder said that the EEOC has concluded that only a small fraction of the assessments administered during the relevant time period could have been problematic. We continue to firmly believe that no improper behavior occurred regarding these assessments." She said that because none of the assessments cited by the EEOC are still in use and given the significant resources that would be required to litigate this case, Target agreed to a settlement with the EEOC.

The EEOC launched an investigation into the Minneapolis-based discount retailer's hiring practices after hearing anecdotal reports of possible violations, Schmid said. Following the investigation, the EEOC found reasonable cause to believe that three employment assessments formerly used by Target disproportionately screened out applicants for positions based on race and sex. Target gave the tests to job candidates who'd applied for "exempt-level professional positions"—in other words jobs that are not eligible for overtime pay. Schmid said that the assessments disproportionately screened out black, Asian, and female

applicants. "The tests were not sufficiently job-related and consistent with business necessity, and thus violated Title VII of the Civil Rights Act of 1964," the EEOC said.

The EEOC also dinged Target for its failure to adhere to the Americans with Disabilities Act. One of its pre-hire assessments involved questions that were asked and interpreted by psychologists, which resulted in interview summaries that Target used during its hiring process, Schmid says. The ADA, which turned 25 this year, says that an employer can conduct a medical examination only after making a job offer, and even then, only if it requires the assessment of all workers applying for jobs in that category.

The EEOC also found that Target had failed to maintain required records to properly assess the impact of its hiring procedures.

The practices adversely affected thousands of people, the EEOC said, and the \$2.8 million Target is set to pay will be distributed among those individuals. Snyder said that "of the tens of millions of applicants who applied for positions with Target over the past decade, this settlement covers a group that numbers in the four-figure range." She also said that though the EEOC found that the tests had potential adverse impact, "it did not find that there were any disparities in Target's actual hiring."

The case never entered litigation. As the EEOC conducted its investigation, Target ended the assessments in question. And as part of the conciliation agreement, Target made changes to its data collecting systems and said it will monitor the hiring tests it uses going forward for potentially adverse effects on race, ethnicity, and gender. It will turn those analyses over to the EEOC each year.

UCLA SAYS NORTHERN CALIFORNIA BAY AREA HAS REACHED FULL EMPLOYMENT

The Bay Area job market is so robust that this region has reached what is considered "full employment," and California should reach that mark sometime in the second half of 2016, according to an economist with the UCLA Anderson Forecast, which released a new quarterly report according to San Jose Mercury Reporter George Avalos.

Shrinking jobless rates and steadily expanding employment gains, along with a surging economy, are primarily what is boosting the employment picture for the nine-county Bay Area, said Jerry Nickelsburg, senior economist with the UCLA Anderson Forecast.

Full employment isn't always precisely defined, but the Federal Reserve, the nation's central bank, has been using a 5 percent nationwide jobless rate as the target level that defines full employment for the United States, Nickelsburg said. Santa Clara County's unemployment

rate is around 4 percent, San Mateo County is at 3.3 percent, and San Francisco is at 3.6 percent, Nickelsburg said. The unemployment rate in the East Bay is at 4.8 percent.

Each of the Bay Area's metro regions have recovered all the jobs they lost in the Great Recession, and some even have set all-time records for employment or are near those peaks.

REAR IMPACT GUARDS FOR TRUCKS MAY COST \$669 MILLION TO SAVE FIVE LIVES

A new rule proposed by the National Highway Traffic Safety Administration (NHTSA) could save five lives a year – at a cost of \$669 million dollars. That figure would be the total for equipping approximately 342,000 single unit trucks (SUTs) with rear impact guards, the first step of a larger initiative to upgrade crash protection standards for trucks and trailers.

Single unit trucks include dump trucks, garbage haulers, concrete mixers, tank trucks, trash trucks and local delivery trucks.

The advance notice of proposed rulemaking released by NHTSA also includes a requirement for reflective tape on SUTs that could save up to 14 lives per year. The annual cost of adding the tape to an estimated 579,000 SUTs would be approximately \$30 million.

The ANPRM which is available in the Federal Register will help the agency gather input from the public stakeholders on the estimated cost and of safety strategies for these vehicles.

"These vehicles are essential to the transportation system, and we have a duty to the travelling public to take every opportunity to strengthen truck safety," said U.S. Transportation Secretary Anthony Foxx

You're over the hill when in the morning you stand and hear snap, crackle and pop, but it isn't your breakfast cereal!

Thanks and a tip of the hat to:

Fortune Com Writer Claire Zillman
George Avalos, San Jose Mercury Reporter
J. Randy Forbes, Congressional Chairman
National Highway Traffic Safety Administration

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