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# CANADA'S FUTURE FIGHTER REPLACEMENT



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## The Catastrophe: Assessing the Damage from Canada's Fighter Replacement Fiasco

Richard Shimooka

**Author's Note:** This report relies on confidential sources as part of its narrative. Unfortunately, of more than a dozen individuals interviewed during the course of research, not one was willing to speak on the record with the author. This is a reflection of the present climate within government, which this report will explore in depth. Where major assertions of fact not publically known are made, a minimum of two sources are required. Furthermore, any previously unreleased documentation cited within report has been provided in Annexes A, B and C in the interests of transparency.

### Introduction

April 2019 marked the 95<sup>th</sup> anniversary of the creation of the Royal Canadian Air Force (RCAF), which has been an integral part of modern Canadian history. From the Second World War, to NORAD and the Cold War, up to the present day, the RCAF has played a critical role defending Canadian security. It has also been a major technological and industrial boon for the country. Internationally, Canada has emerged as an industrial aviation powerhouse, the fifth largest in the world. The majority of Canadian defence companies – e.g., CAE, Bombardier, and Magellan Aerospace – can trace their origins to RCAF contracts. In short, the RCAF is woven into the fabric of the country.

Over the course of the Liberal government's mandate, it has made constant pronouncements on its effective stewardship of the country's national security, its defence situation, and the air force. However, now in its fourth year, these claims are starting to ring hollow. Already the government has failed to deliver on the budget promises it made in its 2017 defence policy document, *Strong, Secure, Engaged*.

*The author of this document has worked independently and is solely responsible for the views presented here. The opinions are not necessarily those of the Macdonald-Laurier Institute, its Directors or Supporters.*

A Canadian government not meeting its well-defined defence obligations is by no means unique or surprising; it has been a regular occurrence since the 1950s. Yet one place where the Liberal government's actions have gone far beyond Canada's garden variety dysfunction on defence and military procurement is in its handling of the fighter jet replacement file. This has parallels with two ongoing controversies: the SNC-Lavalin scandal and the Mark Norman affair. At their heart, these two incidents represent attempts by the Liberal government to circumvent established processes to meet their partisan interests. This description is just as apt for the fighter program.

During the 2015 election campaign, the Liberal Party promised not to buy the F-35 jets, but instead to use a competition to identify and subsequently purchase a lower-cost competitor. As this report will show, this decision proved to be impossible, unethical, and potentially illegal, and the decisions made subsequently to deliver on it were purely for reasons of political interest: not a single one could be claimed as being in the country's national interest. They include:

- Spending billions of dollars on a procurement process to fix a contrived capability gap;
- Placing the future of the state's national security at severe risk by delaying by nearly a decade a desperately-needed modernization of the RCAF;
- Damaging Canada's defence relationship with the United States, its closest ally; and
- Threatening one of the most lucrative high-technology programs in Canadian aerospace industry, the Joint Strike Fighter Program Partnership.

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Normally decisions of the kind that are rampant in the fighter replacement program would be the subject of leaks and other damning testimony by people involved. However, the Liberal government has successfully employed a number of techniques to conceal its historic levels of procurement mismanagement. These include an unprecedented gag order on military and civilian personnel, the effects of which have been magnified by the upcoming trial of Vice Admiral Mark Norman for breach of trust over leaked cabinet documents relating to the Auxiliary Oiler Replenishment (AOR) contract. The government has also suppressed negative viewpoints within and outside the Department of National Defence, allegedly up to and including the deletion of portions of Memos to Cabinet that highlighted why certain decisions should not be taken.

The mishandling of the file has not escaped the notice of the United States, which has sent a number of letters to Canada to express its concern and displeasure with the government's handling of the file, to the detriment of our strongest bilateral military relationship. If this was any other policy area, it would have been a public scandal long ago.

The first section of this report will discuss the history of the Joint Strike Fighter Program and Canada's involvement in it. This will provide a foundation for understanding the situation in which Canada currently finds itself. The subsequent section will look at the procurement of a so-called interim fighter capability, first the Super Hornets and then the surplus Australian Legacy F/A-18. The final section will cover the competition to replace the CF-18, known as the Future Fighter Capability Project (Government of Canada 2018).

## The Past as Prologue: Canada and the Joint Strike Fighter Program

The origins of the present situation emerge from a single reality that has existed since Canada signed up for the Joint Strike Fighter (JSF) Program: joining the partnership has made it impossible for Canada to hold a competition seeking Canadian jet suppliers. This fact is due to the unique nature of the partnership, a massive technical, political, and industrial enterprise designed to usher in a new era of multinational defence cooperation.

The genesis of the program resulted from several factors that emerged in late 1990s and 2000s. At the time, the fourth generation of American and Allied aircraft, designed and built in the late 1970s and 1980s, of which the CF-18 was a part, were reaching obsolescence. In the 1990s, initial efforts to replace some of these aircraft ran into major challenges such as cost overruns and delays. While many analysts identified the advanced capabilities of these aircraft as the reason for the challenges (Younossi, Stem, Lorell, and Lussie 2005), the reality had much more to do with a lack of production scale. The end of the Cold War meant that many jet manufacturing programs were slashed in size, like the F-22 Raptor stealth fighter in the United States and the Eurofighter in Europe (Hartley 2006). The lack of manufacturing capacity rapidly increased the cost of the aircraft as manufacturers could not integrate efficiencies of scale or develop production efficiencies that could significantly decrease unit costs (by 70 percent or more) from initial prototypes. Software and other incremental improvements over the service life also added additional expense.

By producing one aircraft in three variants to replace six aircraft, and by signing up numerous allies to the JSF partnership to develop a fifth-generation aircraft, the United States believed it could ensure a large volume of orders and avoid this problem. The program largely achieved this objective. At present, F-35s are being produced at a rate of 11 to 12 aircraft per month, more than the combination of all other western fighter aircraft (Johnsson 2019). The scale of production has enabled the per-unit cost of F-35s to be less than its less technologically advanced, lower-production competitors.

In order to sweeten the pot for JSF participant countries, the United States offered several significant concessions. The first was that they would obtain aircraft and sustainment services and equipment at the same cost as the US government. Normally, jurisdictions outside the United States go through the Foreign Military Sales process, where the US government approves and then brokers the purchase. This process tends to increase the cost of the program by as much as 30 percent when research and administrative fees are charged to the purchaser (Defense Security Cooperation Agency 2019). Later capability upgrades come at additional expense. JSF partners would avoid all of those costs. They would, however, be required to share in the research and development costs, which for Canada was assessed to be \$552 million in 2013, spread out over the development period (Canada, Department of National Defence 2013, 11).

The second concession was arguably the real jewel of the partnership: the industrial partnership scheme. It provided the opportunity for participating countries to have their national industries be a supplier in the program. This would operate much like modern civil aerospace and automotive global value chains, where firms complete sub assemblies and send them along to other locations to be assembled with other parts. Countries that were part of the partnership would compete for contracts to build components or provide services for the

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F-35 program. This applied to all F-35 aircraft built, not just those purchased by the partner country; the number projected to be built was over 3,000 aircraft.

At the time, Canada was in an enviable position compared to many of its JSP partners. Its strong aviation industry, the third largest within the partnership, was the most highly integrated with US defence manufacturers – and it had geographic advantages. As a senior official at the time recounted:

Around 2006, representatives from some other participant nations claimed that Canada was getting “more than its fair share.” Our response was that there was no “fair share”: it is a competitive process, and Canadian industry is very well placed because of the bilateral relationships with US industry that already existed and its good reputation in aviation technologies. (Confidential interview with author)

There was a hitch, however, which would dog the program’s progress in Canada. All major Canadian government procurements sourced from a foreign vendor required offsets in the form of Industrial and Technological Benefits (ITBs). These are a required reciprocal series of investments, whereby the foreign company promises to reinvest into Canada an amount equal to what was spent. These reciprocal investments have long been seen as an inefficient method for delivering economic benefits; several countries, including Australia, have moved away from them to more flexible cooperation approaches (Berkok, Penney, and Skogstad 2012: 8). With the latter approach, most firms tend to offer a large portion of their commitments in what are known as “indirect offsets.” These are investments in activities unrelated to the procurement of the item in question, as the foreign vendors cannot offer work on highly mature production lines with established supplier bases.

Thus, for Boeing’s Super Hornet and Airbus’s Eurofighter, the firms would rely heavily on their respective commercial aircraft component contracts to meet the offset obligation were a contract to be signed. Even so, expecting a foreign firm to actually spend such an amount was asking the near impossible given the large size of the fighter jet replacement contract. Thus, firms would have to take advantage of opportunities in “key industrial capabilities,” which would multiply the value of their investment (Canada 2018c).

Given the restrictions that offset policies created, the JSF Production Sustainment and Follow-on Development Memorandum of Understanding (PSFD MOU), signed by Canada in late 2006, specifically prohibits their imposition by program participants (United States, Department of State 2006). Contracts for F-35 program work were awarded on the basis of best value and could be affected if another firm offered a better option. The arrangement was of concern even to then Prime Minister Harper, despite his long-standing support for the program (Interview by the author with a confidential source). This was likely because the arrangement could expose the government to political criticism, including from labour unions (Unifor 2018, 21).

In practice, however, losing this type of competition for high-technology aviation contracts would rarely happen to Canadian firms that already operated in, and had a good reputation in, this sort of global value chain and were world leaders in their respective areas. It was seen as a relatively small risk, yet one with disproportionately large rewards.

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The reward for Canada was substantial, and far outstripped what would normally be possible with offsets. At the time, Industry Canada (2014) predicted that Canada would see in excess of US\$10 billion in contract work were it to join the JSF partnership; much of it following on from existing work, with less than 10 percent as new contracts in different areas. By December of 2018, Canada had already accrued US\$1.33 billion of work on the fighter (see Annex C), with about 700 jobs directly involved in the project. A study undertaken by OMX for Lockheed Martin suggested that Canadian JSF contracts support approximately 9,400 full time positions within the economy, over 7,770 in Aerospace manufacturing alone (OMX 2017, 5). Twenty-eight major firms are presently active, with geographic distribution across the country.

A similar view on the relative benefits of direct offsets versus the partnership emerged from other partner states. A Danish government analysis from 2016 that led to the F-35 being selected for their air force estimated the program would result in approximately US\$4 billion worth of work for Danish industry, compared to US\$2.8 billion for the Eurofighter and US\$2.3 billion for the Super Hornet (Denmark, Forsvarsministeriet 2016). Furthermore, F-35 contracts were valued to be significantly higher in quality than those of its competitors, as they were direct contracts using cutting-edge technology.

Canada joined the JSF Program System Development and Demonstration phase in 2001 with agreement from the Chrétien government, primarily to secure work for Canadian industry and gain access to advancing technologies. In December 2006, the Conservative government signed the PSFD MOU to extend and expand its participation in the JSF Program. Later, in 2009, the government decided that, given the vast benefit advantage in what the JSF partnership offered compared to what the ITB requirement would entail, an exception from the guaranteed offset regime was appropriate. This was affirmed by several legal opinions and analyses undertaken within the Department of National Defence (DND), Public Works and Government Services Canada, and Industry Canada (Shimooka 2017).

In these detailed assessments, it was determined that a fair Canadian competition to select a replacement for the CF-18, with Canada as part of the JSF partnership, was not possible. After monitoring the program since 2001, the government and the analysts determined that the F-35 was simply the lowest cost option of all competitors, offered a far superior industrial benefits proposition, and was significantly more capable than any other option. Any competition, they concluded, would be tantamount to a sham, and open up the government to a lawsuit by the other competitors who would be entering into a process they had no hope of winning (Shimooka 2017). The National Fighter Procurement Secretariat (NFPS), established to independently reevaluate the fighter replacement program after the 2012 Auditor General's report, came to a similar conclusion (Confidential interview with the author).

On the basis of the NFPS's recommendations, the Conservative government had secretly moved to an initial procurement of four F-35As, with a commitment to buy more of the aircraft, in order to start replacing the CF-18s before their end-of-life date in 2020 – though they maintained at the time that no decision to replace the CF-18 had been made. They would take a pause several weeks later when a US Air Force (USAF) briefing document was leaked that detailed this proposed purchase, which was uncovered by the Canadian media (Koring 2014). The Conservatives then decided to revisit the issue after the 2015 election.

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Had the leak occurred a week later, the deal would have been completed and the RCAF would have been well on its way to replacing its aging and increasingly obsolete fighter fleet (Confidential interview with the author). Instead, it now faces a delay of at least a decade, if a replacement is delivered at all. The delay is placing the fighter force in mortal jeopardy.

## Trudeau Era 1: The Interim Buy

The most remarkable aspect of the Trudeau government's decision-making surrounding the fighter replacement is how consistent its policy-making has been with the party's uninformed 2015 campaign promise. Two months before the election, candidate Trudeau made this statement in Halifax:

We will not buy the F-35 fighter jet. Instead, we will launch an open and transparent competition to replace the CF-18s... [ensuring] that bids include guaranteed industrial benefits for Canadian companies and workers... By choosing to replace the CF-18s with a more affordable aircraft than the F-35, we will be able to guarantee the delivery of current procurements for the Navy. We will keep those promises. (Liberal Party 2015a)

Immediately upon becoming the governing party, the Liberal Party was confronted with the impossibility of these campaign promises. The new Minister of National Defence, Harjit Sajjan, and his staff were given briefings from departmental officials that laid out the present situation and the impracticality of a competition (Confidential interview with the author). According to these briefings, there was no legal way to exclude the F-35 from a competition, and in a fair format, it would almost certainly win.

The Liberal government remained undeterred and started to implement an approach that circumvented the procurement process, which resulted in its proposal to purchase an interim fleet of 18 Super Hornets that, according to the government, was meant to fill a purported "capability gap." This plan entailed a process to deliberately exclude departmental officials from decision-making, centralizing it around the minister's office and polarizing the Canadian Armed Forces by separating them from public servants at DND.

Policies were directed from the minister's office with little to no input from the public service. Instead, public service staff were largely directed to implement directives, no matter how illogical or lacking in factual traceability. This would become evident several months later when news emerged that the Commander of the Air Force, Lieutenant-General Mike Hood, was not consulted about major policy changes affecting the air force (Berthiaume 2016a). Even the US Project Executive Officer for the F-35 program was largely ignored by federal representatives when he came to Canada in October 2016 to discuss the potential interim buy (Leblanc 2016). Instead of listening to expert advice, the government relied heavily on the advice of lobbyists and political advisors (Office of the Commissioner of Lobbying of Canada 2017). This ill-conceived process would come back to harm the government as the project's complexities mounted.

The exclusion of RCAF personnel from the decision-making surrounding the interim purchase caused consternation within the military (Confidential interview with the author). In order to ensure message control, the government also created an unprecedented crackdown on leaks, including a lifetime gag order on roughly 200 individuals involved in fighter procurement (Berthiaume 2016b). Arguably a more effective strategy for controlling leaks was the government's very public treatment of Vice Admiral Mark Norman, who was suspended from his position as Vice Chief of the Defence Staff in January 2017, then formally charged with breach of trust a year later (and later formally removed from his position as Vice Chief) for allegedly leaking cabinet documents related to the Auxiliary Oiler Replenishment contract.

The Norman affair has made it particularly apparent the lengths to which the government will go to stifle leaks. It also raises questions about the degree to which the government is protecting its political interests, since the leaks revealed efforts by the New Brunswick shipbuilding giant Irving to pressure the government to give them the AOR contract previously awarded to Davie shipyard – and Norman’s efforts to ensure that Davie kept the contract (Fife and Chase 2017). This is further emphasized by the government’s refusal to cover Norman’s legal fees and its stonewalling on releasing documents (Platt 2019), and potentially led to the sudden departure from politics of former Treasury Secretary Scott Brison, who has been alleged to have close ties with Irving (Brewster 2019). The government’s effort to suppress debate is ironic given the Liberal Party’s repeated refrain during the election to undertake evidence-based policy-making and to un-muzzle government scientists (Liberal Party 2015b).

DND prepared several assessments and resultant draft Memos to Cabinet discussing the potential interim procurement of the Super Hornet aircraft. The documents highlighted the severe negative consequences to the RCAF if the government were to proceed with the Super Hornet purchase. However, individuals within the office of the Minister of National Defence buried these negative analyses in the annexes to the Memos to Cabinet, or modified the message, leaving only the recommendation to purchase the interim Super Hornets on the main page (Confidential interview with the author). The government effectively modified the Canadian Armed Forces’ requirements to support its narrative.

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The proposed procurement of the Super Hornet also directly contradicted the public claims made by the Minister of National Defence as to the RCAF’s capability gap. Not only would the purchase not address any purported gap; it would have greatly exacerbated it. Operating both CF-18s and the Super Hornets would bifurcate the training system for pilots and maintenance staff, which would severely affect the ability of the RCAF to generate sorties and degrade the entire fighter force’s capability and capacity.

Furthermore, by this time, the RCAF was already facing a severe fighter pilot shortage, approximately 20 percent below required strength. Moreover, the attrition rate, particularly among senior pilots, was higher than the number of new entrants into the force. In order to meet just the existing level of capability, as opposed to the Liberal government’s more expansive “capability gap” narrative, the RCAF needed to approximately double the pilots presently in service (Shimooka 2018). However, since the existing training system can only produce 15 to 20 fighter pilots a year, it was nearly impossible to resolve the manpower shortages within the present system (Canada, House of Commons 2017a).

Finally, DND highlighted that the cost of this entire endeavour was unaffordable. It had as proof the research it had done in preparation for the 2014 decision, which showed that the per-unit cost of Super Hornets was at least 30 percent higher than the cost of the F-35s simply because of the United States government’s FMS fees and levies. Combined with the additional equipment and services required to operate them, the cost of 18 Super Hornets was comparable to the price of 65 F-35As (Shimooka 2017).

Internal staff pointed out that a capability gap was indeed a concern – though they were referring to the problems associated with maintaining the current level of capability and commitment, as opposed to the more expansive “capability gap” narratives that the Liberals would later push (Confidential interviews with the author). To better ensure the RCAF’s ability to continue meeting its actual commitments, a much more cost-effective approach

would have been to invest more money in the existing CF-18 fleet and their operations and management budgets, which would have helped to train more pilots and extend the life of these platforms, thereby raising the aircraft's capability.

For most governments, any one of these consequences would have disqualified the entire policy from consideration. Yet none of them swayed the Liberal leadership and senior political officials from removing these points from the public messaging or burying them in the annex portion of the Memos to Cabinet; they used the main page to highlight only the positive aspects of the purchase. This led to what would have been perhaps the most poorly conceived and potentially disastrous procurement in Canadian history to proceed.

One of the ironies of the interim purchase of the Super Hornets was how it was unconnected to any actual military requirement, at least at first. Rather, the purchase seemed to better fit the Liberals' political desire to avoid purchasing the F-35, despite the lack of any actual operational or strategic necessity for the purchase of a separate interim fleet. Buying the interim Super Hornets would also give them the ability to announce a bevy of new industrial contracts with that aircraft's manufacturer, Boeing. They would need to construct the narrative, as journalists Lee Berthiaume and John Ivison (2016) have discussed:

The Liberal government is intent on buying Super Hornet fighter jets, according to multiple sources. Prime Minister Justin Trudeau's cabinet reportedly discussed the issue last week, and while no formal decision was taken, one top-level official said: "They have made up their minds and are working on the right narrative to support it."

The narrative they decided upon was the "capability gap." Rather than focus on the need to meet the current level of capability, and the realistic measures the government would take to address such shortfalls by an increase in the CF-18's operations and management budget, the Liberal narrative was more expansive: their gap referred to the situation where the RCAF had insufficient aircraft and aircrew available day-to-day to meet the country's full NORAD and NATO commitments *simultaneously*.

While it certainly existed, DND and governments had managed this gap since the early 1990s. They did so primarily because it was perhaps the unlikeliest scenario the RCAF would ever be called upon to respond to: one tantamount to a major global conflict with theatres of war both in NATO countries in Europe and North America. In no other situation in peacetime would the Liberal government call upon the Canadian Armed Forces to meet such a contingency. Addressing this gap for such an unlikely situation was even less critical given that more expected scenarios and pressing defence requirements remained unaddressed. It also ran contrary to the Liberal Party's electoral claim that Canada needed a more domestically focused fighter force (Liberal Party 2015a).

The creation of the capability gap narrative allowed the Liberal government to justify the immediate purchase of Super Hornets, which also avoided their own requirement that a competition be held to determine the replacement. Their justification was made on the flimsy excuse that only an American plane could be made interoperable in the time available and assumed that the Super Hornet was significantly more operationally effective than the existing CF-18 Hornet. Commentators outside of government detected a more nefarious intent: procurement of an interim Super Hornet would effectively preclude any other aircraft from being selected later due to the Super Hornet's sunk cost advantage (Battista and McDonough 2016).

This view was shared within the senior ranks of the department, who were fearful over what the decision may entail for the future of the fighter force – and aghast at the decision taken (Confidential interview with the author). The government was willing to spend billions of dollars in a way that would irrevocably damage the fighter force. Some departmental staff started writing down personal notes that detailed what they had been asked to do and by whom. However, the gag order, as well as the initial suspension and later removal of Vice



Admiral Norman as the military's second-in-command, to say nothing of his ongoing trial, was at the forefront of many of their minds (Confidential interview with the author). Consequently, nobody spoke out publicly.

The RCAF's salvation came from an unexpected source. By April 2017, the Bombardier trade dispute with Boeing had started to emerge as a political issue (United States, Department of Commerce 2017). The American firm sought punitive duties on the Bombardier for the latter's C-Series jet. The Trump administration imposed 220 percent duties on September 27, 2017, which were reversed through an independent trade body decision a few months later. Nevertheless, the damage was done, and by early September, Prime Minister Trudeau had tied the dispute to a potential cancellation of the order.

At the same time, the US government had given Canada the Foreign Military Sales (FMS) pricing for the 18 Super Hornets requested. According to the US State Department, the total price for these aircraft was \$6.4 billion (Pugliese 2017); notably, the per unit cost for each aircraft was around \$120 million (Confidential interview with the author), which was nearly double the per unit price suggested by the Liberals for these aircraft in their election platform (Liberal Party 2015a). The pricing was so dramatically higher than expected that DND sent a team to Washington to clarify the US offer.

However, Canada had already moved onto a Plan B. In April of 2017, the RCAF had identified the countries that might be disposing of their legacy Hornets around the year 2020. At that time, DND public servants had approached the Royal Australian Air Force to discuss the purchase of some of their surplus F/A-18A Hornets (Canada, House of Commons 2017b). These aircraft were purchased in the early 1980s and were a similar vintage to the CF-18s and could be an important source of spare parts, now that the Canadian fleet was expected to serve until 2032. However, in August those discussions escalated to the potential purchase of the aircraft in flying condition; government officials thought they could serve as the interim fighter aircraft instead of the Super Hornet.

Although the idea of purchasing the old Australian F/A-18As was met with hostility from within the military, it was less than what was generated by the proposed Super Hornet acquisition. While the potential political harm caused by the purchase of the Australian Hornets would be significantly less than the previous plan to buy the new Boeing Super Hornets, it was still a waste of resources and would likely not improve aircraft availability rates nor mitigate the government's concerns about the "capability gap."

Briefing notes detailed how the pilot shortage had not eased in the previous several years, but in fact had worsened (Confidential interview with the author). It was obvious that fighter pilots and technicians alike had lost confidence in government and DND bureaucrats, and were silently retiring from the military in large numbers. In the fall of 2018, the Office of the Auditor General made these observations in a draft report that it sent to the Department of National Defence (see Annex A):

In our opinion, the government does not need to spend \$470 million to buy used F-18 fighter jets that are as old and have the same combat capability deficiencies as Canada's current fleet of CF-18's. Canada does not have the technicians or the pilots in place to keep more aircraft in the air. Buying additional aircraft has never been the solution to ensuring that the RCAF has the number of aircraft available daily to meet Canada's commitments to NORAD and NATO simultaneously.

Recommendation: National Defence should not purchase interim aircraft until it implements plans to recruit and train pilots and technicians.

These concerns were excised from the final report after protests from senior DND staff and members of the minister's office (Confidential interview with the author). Those protests fit within the pattern of the government suppressing information from the public that would have opened its decision to question, and eventually, to disqualification.

The draft Auditor General's report also made clear that the interim purchase of the Australian aircraft would not address the increasing technical obsolescence of the existing tactical fighter fleet, which was becoming less and less capable of effectively operating against increasingly advanced and sophisticated adversaries. A good example is the CF-18's obsolete self-protection electronic jammers (Confidential interview with the author). The jammers are a critical component for fighting in any modern conflict where an opponent possesses a modicum of technical capability. The current system has not been upgraded since it was purchased in the 1980s, which has left the aircraft extremely vulnerable to current threats. The jammers are just one of several systems on the CF-18 in such a state, and piecemeal upgrades, such as to air-to-air weapon systems or radars, are a proverbial Band-Aid solution for the capability deficiency of the Canadian tactical fighter fleet.

None of these facts swayed the government from making an unnecessary and ultimately wasteful decision. On December 12, 2017, the government officially announced the end of the Boeing Super Hornet purchase and instead, said it would acquire the surplus Australian Hornets. The government later stated it had set aside \$500 million for the purchase (Pugliese 2018b). However, according to the Parliamentary Budget Officer's (PBO) 2019 analysis, the total cost is estimated to be over \$1 billion when total cost of ownership, structural, and modest capability upgrades are factored in (Office of the Parliamentary Budget Officer 2019).

Again, Minister Sajjan remained entrenched in his partisan position, claiming the mitigation of the capability gap was the primary reason for the purchase of the RAAF Hornets (Brewster 2017). He clung to the government's manufactured capability gap narrative despite significant internal evidence that predicted the deep damage the purchase would do to the RCAF's ability to generate aircraft for sorties, the very problem it had been trying to solve. The purchase will saddle the RCAF with an obsolescent fighter fleet for the next 13 years, if not more, to a point where many of the aircraft will be approaching 50 years old. This fiasco has damaged the RCAF's public and internal image as a modern fighting force, which has had deleterious consequences on the morale of military members. Unfortunately, it was not the only negative outcome to emerge from the announcement.

## Trudeau Era 2: The Future Fighter Capability Program

While the December 12 announcement discussed the government's revised interim purchase plans for the Australian jets, its main focus was to announce that Canada was to enter the next stage of the competition to replace the CF-18 fleet, now known as the Future Fighter Capability Project (FFCP). The FFCP shared many of the same themes as the interim buy, with predictable outcomes. Rather than attempt to ensure the RCAF would obtain the best aircraft for Canada, at the best price, and deliver the most valuable industrial and economic benefits to the country, the Liberal government oversaw a process that seemed designed to advance their partisan interests.

While it initially seemed as if the government had backed away from its promise to exclude the F-35 from consideration, the offset requirements are explicitly designed to prevent that aircraft from competing and they ignore its already substantial contribution to Canadian economy. The government's clear preference was that the industrial benefits policy be followed, thereby allowing it to accrue political capital by trumpeting the Liberal economic management of this file despite the damage it would wreak on the aviation industry.

The first major step in the FFCP's process occurred on January 22, 2018, when government representatives met with interested parties in a day-long information briefing session (Public Services and Procurement Canada 2018). Continuing the government's pattern of message control, attendees were required to sign forms that required them "not share information or materials obtained at the event with the media" and that they were "not a member of the media" (Pugliese 2018a).

Government representatives broadly outlined their requirements for the project, which reflected the compromises it had to make in order to have a plausible attempt at a competition. This became immediately evident from the sections focusing on capability. The RCAF was pressured to shift many of its previously mandatory requirements to a rated scale, while in other areas it was prohibited from updating the pre-2012 requirements statements to modern standards (Confidential interview with the author). As far as the public services were concerned, these restrictions allowed less capable aircraft to participate in the competition and also made them more competitive against the F-35. It also artificially compressed the ratings in some cases in order to minimize the operational advantage of the most capable aircraft.

Despite that, several major impediments emerged for all competitors. European manufacturers were hard pressed to fulfill a new set of mandatory requirements colloquially known as five eyes/two eyes interoperability (Canada 2018b, 9). For Canada, these standards ensured the aircraft would be able to communicate and operate within Canada's key intelligence groups, specifically the so-called Five Eyes group (consisting of the US, UK, Australia, New Zealand and Canada) and NORAD (consisting of Canada and the US). Together, they provide the RCAF with critical intelligence data to help Canada's fighters operate effectively against all adversaries. (For example, if an adversary deploys a new radar, intelligence sharing would provide the Canadian fighter force with information needed to identify and counter it.)

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This requirement was problematic, as several of the European contenders were not compliant and would need to demonstrate a credible plan in their response to the Request to Proposal (RFP) to ensure interoperability in these areas. The development of this capability would, in some cases, be complex and expensive and would be added to the cost of the aircraft, thereby making them even more costly to acquire.

Another challenge was a mandatory-range requirement. The most demanding mission CF-18s are called upon to conduct is a flight from Cold Lake, Alberta, to the Forward Operating Location of Inuvik in the Northwest Territories. However, in order to operate safely, the aircraft must be able to approach Inuvik to ascertain the state of the runway in bad weather, then divert to Eielson Air Force Base in Alaska (Canada 2018b, 15). CF-18s cannot undertake this mission without US aerial refuelling, and the unavailability of that resource has led to the scrubbing of several interceptions. Consequently, the RCAF called for its next generation fighter to be able to undertake this mission without aerial refuelling in order to increase its overall capability. The F-35 and the Eurofighter have both demonstrated that they can make this 1,451 nautical miles trip, which includes a significant altitude change, while carrying four missiles. But such a requirement is challenging, if not impossible, for the other competitors.<sup>1</sup> However, a recent change that expanded the physical size of the Canadian Air Defence Identification Zone was also conveniently excluded from this requirement (Government of Canada 2017; Confidential interview with the author).

Although the F-35 was the clear frontrunner in the RCAF's capability requirements area based on the above capability criteria, the draft RFP introduced an insurmountable hurdle: a fully guaranteed industrial offset requirement. This had politically dogged Canada's participation since the PSFD MOU on the Joint Strike Fighter was first signed in 2006. However, it seemed the current Liberal government had taken a different tack: they wanted to pressure Lockheed Martin and the JSF partnership to provide it with greater industrial offsets than what the partnership presently provided. This was clearly inconsistent with the PSFD MOU, a fact that many

Canadian officials should have been aware of given their long history with the partnership. However, the requirement would allow the Liberal government to deliver on its promised competition, though at untold cost to the Canadian aviation industry.

Within the United States, the political manoeuvring by the Canadian government was causing growing consternation (Confidential interviews with the author). This may not have been immediately apparent to anyone outside the Pentagon. For much of the current Liberal government's existence, it enjoyed warm relations with then Secretary of Defense James Mattis, who had worked closely with Canadians in Afghanistan and in NATO. Mattis tended to shield US allies; for instance, he had counselled Congress not to cut contracts to Turkey over their purchase of Russian air defence systems (Seligman 2019). The sudden resignation of Mattis at the end of 2018 removed an important supporter of American allies from the US administration.

“ Within the United States, the political manoeuvring by the Canadian government was causing growing consternation.”

Moreover, below the surface in the US Department of Defense (DoD), resentment and distrust towards the government of Canada had grown, particularly within the US Air Force (USAF) and working DoD ranks. The snub of the JSF Program Executive Officer in October 2016 did not go over well, nor did Canada's decision to invoke the Foreign Military Sales process for the Super Hornets - only to cancel the purchase several months later following significant effort by US authorities on Canada's behalf (Confidential interviews with the author). Finally there was a complete lack of logic to Canada's policy, which seemed to ignore basic facts about membership in the JSF program, including clear advantages in cost and capability that the F-35 provided.

On August 31, 2018, Ellen Lord, US Under Secretary of Defense for Acquisition and Sustainment (roughly, the chief arms purchaser for the United States military) sent a strongly worded letter to senior members of Department of National Defence (see Annex B). It came about as a result of the consultation meetings in February and March with potential suppliers, where the Canadian government inquired about obtaining guaranteed offsets through the JSF partnership. The letter from Lord, a senior DoD official, should have been as a clear warning to the Canadian government - one that would disabuse it of any notion that it could obtain any better opportunities than it currently received through the partnership:

I understand that the evaluation of potential suppliers' proposals for the FFCP will include elements related to the ITB policy, which requires a commitment from contractors to undertake business activity in Canada equal to the value of any FFCP contract... This ITB obligation would be inconsistent with the provisions of the JSF PSFD MOU.

This text basically stated that Canada had signed the MOU clearly understanding these provisions and could not now try to renegotiate a better deal. This was reinforced by the next section, which emphasized:

Furthermore, Canada's evaluation of ITB goals unrelated to the Industrial Partnership arrangements, already established in support of the JSF PSFD MOU, would be fundamentally and structurally prejudicial to any F-35 bid... As a JSF PSFD MOU Participant, Canada has benefited, and would continue to benefit, from the MOU. However, if the ITB policy is imposed as currently envisioned, there is a concern there would not be a level playing field for the FFCP competition. Such an outcome would be unfortunate in light of the discretion Canada has in implementing the ITB policy in any particular case.

The statement basically accused Canada of deliberately pursuing a policy that would disadvantage the F-35 and the clear benefits it provided the country. Despite its clear language, however, the letter did not elicit any sort of change or response. Quite the opposite. The government pressed ahead with its process with little change to the RFP. It had little choice if it wanted to continue the façade of a competition. If they provided fair value to the F-35's industrial partnership contracts, it was possible that most, if not all, the other competitors would refuse to participate.

Other competitors faced their own challenges, however. Canada's ITB policy was generally seen as being overly onerous, requiring companies to invest far too much back into Canada to become competitive in the competition. Offsets are not free money: while there are some low-hanging fruit where a foreign firm can incorporate a domestic company with minimal cost, this can only go so far. With a fairly large offset requirement, companies must enter into inefficient investments to meet the country's demands, the costs of which are passed back to the Canadian government. As a result, the amount budgeted by the government of Canada would be insufficient to cover the 88 aircraft it intended to procure, leading to fewer aircraft and less capability. Boeing faced its own hurdle, colloquially known as the "Boeing Clause," in the aftermath of the Bombardier dispute (Pugliese 2018d). Although the particulars of this policy are not evident, the government intimated that any company that had done economic harm to Canada within a certain period of time would be put at a disadvantage to other competitors.

On October 29, 2018, the government released a draft request for proposal (RFP). Just over a week later, Dassault, the manufacturer of the Rafale, announced that it would not participate in the competition any further (Pugliese 2018c). While the company declined to give a firm reason for its decision, one can infer that many of the factors listed above, such as the five-eyes/two-eyes interoperability, the offset requirements, or simply the enormous cost of participating in a long and complex competition, could have led to their withdrawal.

Within the JSF program, it was apparent that Ellen Lord's August 31 letter had no effect on the draft RFP. The US DoD subsequently sent a second, far more directly worded letter to make clear the stakes involved. On December 18, 2018, the JSF Program Executive Officer (PEO), Vice Admiral Mathias Winter, had his letter delivered to the Senior Director of the Future Fighter Capability Office (Annex C). It reiterated much of Undersecretary Lord's messaging about the incompatibility of the FFCP's proposed draft RFP, but was more direct in its language and laid out specific consequences for Canada's actions.

Fundamentally, the F-35 program is different from Foreign Military Sales or Direct Commercial Sales procurements. The F-35 Partnership includes Canada as an integral member of a global enterprise containing multiple Partners, with both shared, and unique strategic, operational and tactical, requirements and investment opportunities. As a Partner, Canada remains subject to the terms of the F-35 cooperative Partnership. As such, the current FFCP procurement process does not allow for the F-35 to participate in a fair and open competition that recognizes the special nature and distinct advantages of the Partnership...

... Partners are prohibited from imposing requirements for work share or other industrial or commercial compensation. Instead, IP [industrial participation] is determined on a competitive, best value basis to maximize affordability across the F-35 enterprise. This approach to IP has a 12-year track record and has resulted in over \$1.33B USD in economic benefits to Canada in the form of F-35 production work, assigned on a best-value basis and implemented through the F-35 IP MOUs... **These benefits will extend well beyond the 15-year ITB obligation period defined in the DRFP [Draft RFP]. As a Partner in the F-35 enterprise, Canada will continue to be eligible for best-value opportunities that span work on the entire F-35 fleet for the next 50 years.** (emphasis added.)



The bolded portion is critical to understand in context: it was a veiled reference to Canada's untenable position concerning ITBs and guaranteed offsets. The country would receive far better industrial outcomes through the partnership, from which it had already benefited for the past 15 years. It was also an embarrassing indictment that effectively called out the credibility of the government position: a large portion of the Canadian bureaucracy understood the impossibility of what Canada was asking, yet the JSF partnership needed to spell it out directly.

The final part of the letter laid out the consequences if Canada proceeded with the guaranteed offset policy in a final RFP.

In summary, we cannot participate in an offer of the F-35 weapon system where requirements do not align with the F-35 Partnership. Such an offer would violate the JSF PFSD MOU and place the entire F-35 Partnership at risk. In order to provide for a fair process that allows us adequate time to make a Bid/No-Bid decision and prepare a response, if necessary, we would appreciate if you advise us by January 31, 2019, regarding which approach Canada will take. We are convinced that the F-35 is the best solution for Canada's future fighter requirements. **We look forward to Canada reaffirming its status as a F-35 Partner and hope the ITB issue will be resolved quickly so the F-35 is able to compete in the FFCP.** (emphasis added.)

The last paragraph contains a very clear threat. The PFSD MOU states that only by procuring the F-35 within the JSF program will Canada receive contracts. Meanwhile, the request for clarification on Canada's status in the program refers to the industrial contracts that Canada currently enjoys. If the country voluntarily leaves the program, or is terminated from the program, its present contracts would be removed and redirected to other partner firms.

Despite the request for clarification by January 31, 2019, the JSF PEO received no response. The government instead moved ahead with the issuance of a final RFP, which reports claim will come sometime in May 2019 (Confidential interview with the author). The government would select an aircraft by 2022, and expect deliveries to start by 2025, a schedule that even its own staff view as "very aggressive" and could be subject to delays (Pugliese 2019a).

If the final RFP is allowed to continue in its present form, it will cause irreparable damage to the country's security. As with the interim buy of the Australian F/A-18A Hornets, the FFCP process was based around a fundamental misperception of the overall security, economic, and fiscal nature of the F-35 program and fighter aircraft in general. These errors were then implemented haphazardly, as were attempts to negotiate with a party, the US government, that had no ability or inclination to give Canada a better deal.

In sum, the FFCP procurement continues to be subject to partisan politics instead of a mature and credible all-of-government approach. The FFCP has been a complete and confusing nightmare for the RCAF, and has resulted in Canadian service men and women losing confidence in the government. Finally, and perhaps most damning, Canada's allies view their formerly trustworthy friend as an increasingly weak and suspect partner in their efforts to effectively contribute to international peace and security.

## Conclusion

Canadians are accustomed to disappointments in defence procurement; they have pervaded the country's history since Confederation. However, the current Liberal government's partisan handling of the fighter replacement file brings new levels of unethical incompetence to this dismal history. Had this been any other file, where the government potentially risked 10,000 jobs and the waste of several billion dollars for its own political gain, it would have faced a political scandal. Moreover, the government holds the security of Canadian citizens and the country's sovereignty in near total disregard, despite the fact that both are the first and foremost responsibility of any government.

The totality of the government's failures on this file leaves it no avenues to excuse its actions. If the government's aim was to acquire a more affordable fighter jet capability for Canada than the F-35, or deliver better economic benefits, its policies have failed. The government may claim that guaranteed offsets provide the best economic outcomes for Canada, yet all of the evidence directly refutes that claim. No other JSF partner has ever made such a claim; quite the opposite, as the Danish and prior Canadian Liberal and Conservative governments have suggested.

Moreover, as the increasingly terse letters from Washington, DC, demonstrate, the present government's policies have dealt a blow to Canada-US defence relations, the bedrock of the country's security for nearly a century. No part of the government's decision-making in this area has been to the benefit of the country; rather, decisions have been made that completely support the government's partisan interest, stemming from a poorly conceived campaign promise.

Perhaps the most egregious aspect of the government's efforts on the fighter file has been its constant efforts to stifle any dissent. Gag orders, suppressed internal documentation, and pressure on external auditing bodies to revise conclusions were all employed in the effort to support policies that have severe negative consequences for the country. Somewhat prophetically, the Liberal Party predicted the consequences of such an approach in its 2015 campaign platform.

***Government should base its policies on facts, not make up facts based on policy. Without evidence, government makes arbitrary decisions that have the potential to negatively affect the daily lives of Canadians.*** (emphasis added.)

Few lines sum up this fiasco better than this statement.

While the negative consequences are clear for Canada as a whole, no community has felt the impact more than the RCAF. As a result of this government's policies, its ability to conduct its most basic function, the defence of Canadian sovereignty and that of our allies, is diminishing rapidly. It is a sad state of affairs, considering the fighter force's proud history of guarding the country's history. On the 95th anniversary of the RCAF's founding, whether it survives to 100 in its current form is now an open question.

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## Endnotes

- 1 For example, an F/A-18E with three tanks and two air-to-air missiles has a range of 1400 nautical miles, according to the NATOPS manual See: <https://publicintelligence.net/u-s-navy-f-18-natops-flight-manuals/>

# Annex A:

## Draft OAG Report

52. In our opinion, the addition of a new fleet of interim aircraft would have made the personnel challenges facing the RCAF worse and would not have ensured that RCAF could meet defence commitments to NORAD and NATO simultaneously. [This decision appears to have been made contrary to the advice of military and departmental experts. This will be the subject of further examination by the OAG.]

53. Australian F/A-18s as an interim aircraft. Due to a trade dispute with Boeing in 2017, the government of Canada decided not to purchase 18 new Super Hornets. During this period, the Australian government offered to sell 18 surplus F/A-18 aircraft to Canada. National Defence therefore began to assess the viability of acquiring and modifying the Australian aircraft to meet Canada's needs. In December 2017, the government announced its intention to buy 18 Australian F/A-18s. National Defence estimated the total cost to purchase these aircraft at \$470 million – this does not include the cost to operate these 18 aircraft.

54. National Defence determined that the Australian F/A-18s, which were similar in age and design as the CF-18s, could be modified to be identical to Canada's fleet. However, the Australian aircraft would only help the RCAF reach the number of aircraft needed if it had more personnel.

55. According to National Defence, there were some advantages to buying the Australian F/A-18s :

- Technicians and pilots would not have to be retrained.
- The offer included spare parts, which could be used to maintain the entire fleet.
- More aircraft will provide the RCAF some operational flexibility to manage the CF-18 fleet until its retirement in 2032.

56. We found that despite these advantages, the addition of used aircraft will not put the RCAF in a better position to meet defence commitments. The used aircraft will require upgrades in order to fly them until 2032. While these upgrades will bring it to the same level as the CF-18, they will be just as expensive to maintain as the CF-18. In addition, the upgrades do not represent an improvement in technology so the Australian F/A-18s would have the same limitations in combat capability as the CF-18s. (See paragraph X.XX)

57. We also found that increasing the number of fighter aircraft from 76 to 94 would be a significant increase in the workload for

technicians. Initially the number of aircraft available would increase with the delivery of Australian aircraft allowing the RCAF to meet the number of fighter aircraft needed daily to meet commitments. [OAG needs evidence from department to support previous sentence] However, without increasing to the number of technicians the number of aircraft available daily will decrease, as more repairs need to be made.

58. In our opinion, the government does not need to spend \$470 million to buy used F-18 fighter jets that are as old and have the same combat capability deficiencies as Canada's current fleet CF-18's. Canada does not have the technicians or the pilots in place to keep more aircraft in the air. Buying additional aircraft has never been the solution to ensuring that the RCAF has the number of aircraft available daily to meet Canada's commitments to NORAD and NATO simultaneously.

59. Recommendation. National Defence should not purchase interim aircraft until it implements plans to recruit and train pilots and technicians.

*The Department's response, [Insert text].*

## Conclusion

60. National Defence has not managed risks related to Canada's fighter fleet to meet government commitments to the North American Aerospace Defense Command (NORAD) and the North Atlantic Treaty Organization (NATO) until a replacement fleet is in place.

# Annex B:

## Letter from US Under Secretary of Defense for Acquisition and Sustainment



ACQUISITION  
AND SUSTAINMENT

### THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

AUG 31 2018

Mr. André Fillion  
Assistant Deputy Minister (Defense and Marine Procurement)  
Public Services and Procurement Canada  
Gatineau QC, Canada

Dear Mr. Fillion:

I am writing to provide a response to a request from Canada posed during the June 2018 meeting with the F-35 Supplier Team. I am informing Assistant Deputy Minister Finn, my National Armaments Director counterpart, of this letter to you. Specifically, my understanding is that Canada requested that the U.S. Government address any constraints that the Memorandum of Understanding Concerning the Production, Sustainment, and Follow-On Development of the Joint Strike Fighter or JSF PSFD MOU may have, within the context of Canada's Industrial and Technological Benefits (ITB) policy, as it applies to the Canadian Government's Future Fighter Capability Project (FFCP). As discussed below, the U.S. DoD, following interagency consultation, views Canada's current approach to its ITB policy to be inconsistent with its commitments undertaken as a Participant in the JSF PSFD MOU.

The JSF PSFD MOU, Section 7.6, states: "No requirement will be imposed by any Participant for work sharing or other industrial or commercial compensation in connection with this MOU that is not in accordance with this MOU." I understand that the evaluation of potential suppliers' proposals for the FFCP will include elements related to the ITB policy, which requires a commitment from contractors to undertake business activity in Canada equal to the value of any FFCP contract. Canada's requiring of an ITB element in any F35 proposal Lockheed Martin (LM) might submit in the FFCP procurement, would have the effect of requiring industrial participation from LM not envisioned in the MOU, were LM to succeed. This ITB obligation would be inconsistent with the provisions of the JSF PSFD MOU.



Furthermore, Canada's evaluation of ITB goals unrelated to the Industrial Participation arrangements, already established in support of the JSF PSFD MOU, would be fundamentally and structurally prejudicial to any F-35 bid under the JSF PSFD MOU. As a JSF PSFD MOU Participant, Canada has benefited, and would continue to benefit, from the MOU. However, if the ITB policy is imposed as currently envisioned, there is a concern that there would not be a level playing field for the FFCP competition. Such an outcome would be unfortunate in light of the discretion Canada has in implementing the ITB policy in any particular case.

Recognizing the nearly 20-year relationship between Canada and the United States regarding the F-35 Program, I welcome your thoughts and look forward to our next opportunity to discuss the F-35 Program.

Sincerely,

A handwritten signature in black ink, appearing to read "Ellen M. Lord". The signature is fluid and cursive, with the first name "Ellen" and last name "Lord" being more prominent than the middle initial "M".

Ellen M. Lord



# Annex C:

## Letter from JSF Program Executive Officer



**F-35 LIGHTNING II JOINT PROGRAM OFFICE**  
200 12TH STREET SOUTH, SUITE 600  
ARLINGTON VA 22202-5402



Paula Folkes-Dallaire, MPA  
Senior Director  
Future Fighter Capability Project  
Public Services and Procurement Canada

DEC 18 2019

Dear Ms. Folkes-Dallaire,

The F-35 Joint Program Office (JPO), as part of the F-35 Supplier Team, is pleased to participate in the Future Fighter Capability Project (FFCP) procurement process. The F-35 Supplier Team has reviewed Canada's requirements and objectives in the Draft Request for Proposal (DRFP). We understand that our inputs are critical to the overall success of the competitive process and welcome the opportunity to provide feedback.

With that perspective in mind, I will emphasize again that Canada's requirement for Industrial and Technological Benefits (ITBs), as documented in the DRFP, is prohibited per the Industrial Participation (IP) provisions of the Joint Strike Fighter Production, Sustainment, and Follow-on Development Memorandum of Understanding (JSF PSFD MOU). This MOU, signed by Canada's Deputy Minister of Defense in 2006, defines the terms, commitments, and obligations of all F-35 Partners and provides the means to develop and deliver Canada's future fighter capability. Further, the relevant IP provisions of the JSF PSFD MOU are mandatory for all cooperative project agreements under United States law, specifically the Arms Export Control Act.

Fundamentally, the F-35 program is different from Foreign Military Sales or Direct Commercial Sales procurements. The F-35 Partnership includes Canada as an integral member of a global enterprise containing multiple Partners, with both shared and unique strategic, operational, and tactical requirements and investment opportunities. As a Partner, Canada remains subject to the terms of the F-35 cooperative Partnership. As such, the current FFCP procurement process does not allow for the F-35 to participate in a fair and open competition that recognizes the special nature and distinct advantages of the Partnership.

Our response to this DRFP is based on the understanding that Canada remains a member of the Partnership and, therefore, will abide by the existing processes, procedures, and constraints of the JSF PSFD MOU. This includes that Partners are prohibited from imposing requirements for work share or other industrial or commercial compensation. Instead, IP is determined on a competitive, best value basis to maximize affordability across the F-35 enterprise. This approach to IP has a 12-year track record and has resulted in over \$1.33B USD in economic benefits to Canada in the form of F-35 production work, assigned on a best-value basis and implemented through F-35 IP MOUs, signed by the Government of Canada (GoC) and the F-35 prime contractors. As Canada continues to meet best value objectives, it will continue to enjoy additional economic benefits from both production and sustainment opportunities. These benefits will extend well beyond the 15-year ITB obligation period defined in the DRFP. As a Partner in the F-35 enterprise, Canada will continue to be eligible for best-value opportunities that span work on the entire F-35 fleet for the next 50 years.

Given the IP provisions of the Partnership, the F-35 Supplier Team cannot comply with the ITB requirement as stated in the DRFP. As such, the F-35 Supplier Team will submit an F-35 offer only if (1) the ITB requirement is waived entirely and (2) there is no future ITB obligation arising from selecting the F-35. This solution would recognize the long-term economic benefits of the Partnership and would ensure fair and consistent IP scoring of all FFCP competitors. If the ITB requirement remains in effect, an F-35 offer will not be provided in response to the FFCP.

In summary, we cannot participate in an offer of the F-35 weapon system where requirements do not align with the F-35 Partnership. Such an offer would violate the JSF PSFD MOU and place the entire F-35 Partnership at risk. In order to provide for a fair process that allows us adequate time to make a Bid/No-Bid decision and prepare a response, if necessary, we would appreciate if you advise us by January 31, 2019, regarding which approach Canada will take. We are convinced that the F-35 is the best solution for Canada's future fighter requirements. We look forward to Canada reaffirming its status as an F-35 Partner and hope the ITB issue will be resolved quickly so the F-35 is able to compete in the FFCP.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mathias W. Winter', with a long horizontal flourish extending to the right.

MATHIAS W. WINTER, VADM, USN  
Program Executive Officer



# About the Author



**R**ichard Shimooka is a Senior Fellow at the Macdonald-Laurier Institute. He was a Senior Fellow at the Defence Management Studies Programme at Queen's University from 2007-2012, and a Research Fellow at the Conference of Defence Associations Institute from 2012-2017. Richard works' cover a diverse array of topics, including Canadian and American foreign and defence policy, modern airpower and defence procurement.

He is a frequent commentator in the media on security and defence issues and has published articles in the *National Post*, *Ottawa Citizen*, *The Hill Times*, *War on the Rocks*, *On Track*, *Canadian Military Journal*, as well as a book, *Let Sleeping Dogs Lie: The Influence of External Studies and Reports on National Defence Policy* (Queens' School of Policy Studies) with Douglas Bland and Vimy Paper 33, *The Fourth Dimension: The F-35 Program, Defence Procurement, and the Conservative Government, 2006-2015* (CDA Institute). He is also author of the

MLI reports *Amateur Hour: The Interim Super Hornet Saga and the Perils of Prioritizing Politics Over Defence* and *NORAD, Continental Defence, and the Pilot Retention Crisis Facing Canada's Air Force*. He has a forthcoming work with UBC Press titled, *No Nobler Purpose: Canada, The United States and 1996 Rwandan Refugee Crisis*.

Richard holds a Masters in Strategic Studies from the University of Wales Aberystwyth and a Bachelors with Honours in Political Studies from Queen's University.



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**CONTACT US:** Macdonald-Laurier Institute  
323 Chapel Street, Suite #300  
Ottawa, Ontario, Canada  
K1N 7Z2

**TELEPHONE:** (613) 482-8327

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