

# United States Senate

WASHINGTON, DC 20510

April 4, 2006

The Honorable Donald Rumsfeld  
Secretary of Defense  
The Pentagon  
Washington, DC 20301-4000

Dear Mr. Secretary:

The U.S. Army Corps of Engineers recently awarded Halliburton's Kellogg, Brown & Root subsidiary over \$250 million in charges that the Defense Department's own Defense Contract Audit Agency auditors considered unreasonably high, unsupported, or unjustified. We urge you to reconsider this decision and bring greater accountability and quality assurance to military contracting, procurement, and disbursement proceedings.

The Corps made the payments under the \$2.41 billion Restore Iraqi Oil (RIO) no-bid cost-plus contract granted to KBR in 2003. Under RIO, KBR assumed responsibility for importing fuel into Iraq, restoring oil facilities, and assessing and suppressing oil spills and fires. This cost-plus contract entitled KBR to full reimbursement of expenses incurred in fulfilling RIO task orders, a guaranteed base profit of two percent of expenditures, and a bonus of up to five percent of costs depending on performance and cost control practices.

In its review of RIO, DCAA identified over \$263 million in potentially excessive and unsubstantiated charges. The Corps rejected most of DCAA's recommendations to refuse payment of these charges, withholding only \$10.1 million of the disputed charges. The Corps refused only 3.8 percent of the amount challenged by DCAA auditors. This figure is extraordinarily lower than the average rate of 66 percent at which your Department has sustained DCAA recommendations over the last three years.

We would like to know how and why the Corps arrived at a conclusion so different from that of your Department's own auditors. Did the Corps unilaterally decide to pay these disputed charges? Did it discover flaws in DCAA's audit? What senior military and civilian officials in the Corps and in the Department determined how much to pay KBR? What role, if any, did the Office of the Secretary of Defense play in this determination? What procedures does your Department employ to address such large discrepancies in reviews of Government obligations under cost-plus contracts? Can

anything be done to overturn this decision and protect the taxpayer from making unjustifiable payments?

In recent years, Halliburton and KBR have faced many accusations of exaggerating costs. The circumstances surrounding KBR's billing under the RIO contract suggest an institutionalized pattern of inflating costs and overcharging the Government. We request that you detail the character and quantity of penalties the Department of Defense and its agencies have assessed against Halliburton and its subsidiaries for work done in Afghanistan and Iraq.

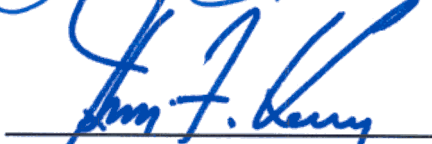
We must do everything possible to minimize the burden on the American taxpayer of meeting our Iraq obligations. We urge you to employ responsible and conscientious contracting policies and solicit competitive bids for contracts. No-bid contracts have cost America's taxpayers millions of dollars and the savings that your Department might have realized through competitive bidding.

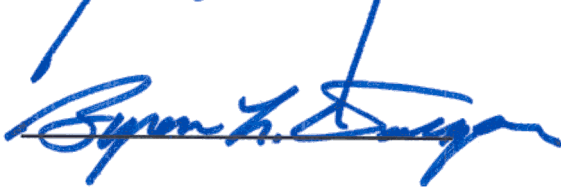
Cost-plus contracts create incentives for wasteful, deceptive business models that maximize corporate profits at the Government's expense. We strongly believe that the Department of Defense should bar from future contracts companies that have abused cost-plus arrangements in the past. Your Department should subject existing agreements with such companies to heightened scrutiny.

In fulfilling our commitments in Iraq, we must maintain the highest standards of fiscal responsibility, integrity, and accountability. This decision to pay Halliburton/KBR \$253 million of the \$263 million in costs in dispute does not inspire confidence that we are doing so. We are encouraged that the Government has retained its right to recover funds disbursed under the RIO contract that are proven excessive or fraudulent. We look forward to the results of your inquiry into this matter and hope that it will bring about a responsible solution that upholds the interests of America's taxpayers.

Yours sincerely,

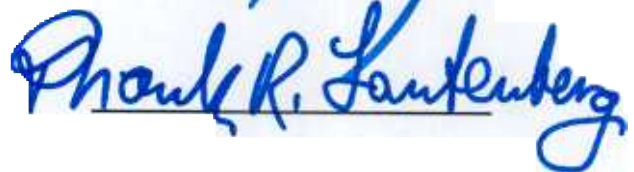
  
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James Johnson

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