

United States Senate

WASHINGTON, DC 20510

July 10, 2003

The Honorable Donald Rumsfeld
Secretary of Defense
Pentagon Room 3E880
Washington, D.C. 20301-1155

Dear Secretary Rumsfeld:

It is becoming increasingly clear that the United States will be engaged in the occupation and reconstruction of Iraq for a much longer period than the Administration predicted originally, and that the lion's share of the cost for this will be borne by American taxpayers. Just this week, for example, news reports quoted the civil administrator for Iraq, L. Paul Bremer, as saying oil revenues will be \$2 billion short of what will be needed in the next six months alone to finance Iraq occupation and reconstruction, and Federal government sources project U.S. taxpayer funding will run into the tens of billions of dollars. We have strong doubts whether American taxpayers will ever see full reimbursement for the cost of Iraqi reconstruction.

As you are aware, the U.S. General Accounting Office (GAO) has criticized the Department for lax oversight of reconstruction and related activities in Bosnia and Kosovo, and the processes used thus far by DOD for awarding Iraq contracts raise a number of similar, troubling questions. Given the soaring cost of this work, it is imperative that the Department make every effort to ensure the contracts it awards provide the best value to the taxpayer.

For example, Kellogg Brown & Root (KBR) was awarded the Iraqi oil field contract by the U.S. Army on a non-competitive basis because under the Army's classified contingency plan, KBR was considered the only company qualified to do the job on short notice. But this contingency plan was written by KBR. This process essentially allowed an incumbent contractor to identify the criteria for selecting who would receive another multi-billion dollar contract and virtually ensured that it would be awarded the contract without competition. Did DOD independently evaluate the criteria identified by KBR to determine who would be selected for the oil field contract? Did DOD review KBR's determination that it was the only company qualified for this work? Is this the process generally used in identifying Iraq reconstruction needs and preparing contract bids? With respect to Iraq or other work performed for DOD, is it customary for contractors to set the criteria for evaluating who is considered qualified to do work for DOD? If these criteria are set by contractors, what conflict of interest protections, if any, are there? To whom are all these contractors accountable? What oversight mechanisms are in place to prevent abuse?

While DOD has recently announced that it intends to solicit bids for the oil field contract work, thereby ending this controversial arrangement with KBR, the questions remain just as critical as if the original contract were to remain in place. Indeed, if there was nothing wrong with the original KBR contract, then why has DOD determined it now needs to solicit competitive bids for this work?

KBR also has a 10-year Logistics Civil Augmentation Program contract with the Army to provide services to the Army on a cost-plus basis. This type of contract essentially allows KBR to spend whatever it considers necessary and then receive a percentage of the cost as profit. It has been reported that nothing like this contract exists anywhere else in the government. Why was such an extraordinary contract awarded in this case? What is the justification for the 10-year term of this contract? Are there any provisions for re-bidding this contract prior to 10 years? How do the Army and/or DOD review the work performed and costs submitted under this contract to ensure they are reasonable? Who determines what percentage of the cost KBR can receive as profit? What oversight mechanisms are in place to prevent abuse?

Finally, can you explain how MCI – a company that does no wireless service in the U.S. and never has – could end up winning the contract awarded by DOD to set up a wireless telecom network in Iraq? The justification most commonly used for awarding Iraq contracts on a no-bid or limited bid basis – that there was a need to move quickly -- would not seem to be a valid justification for ignoring experience as a criterion for awarding contracts. Moreover, DOD's actions fly in the face of the General Services Administration's policy of barring companies like Enron and Arthur Andersen from seeking government contracts. Was DOD granted an exemption from the GSA policy?

At a time when our country faces record budget deficits, it is imperative that taxpayers be assured their money is being spent as cost effectively as possible. To date, DOD's record on contract awards for the reconstruction of Iraq does not give American taxpayers any reassurance that the process being used guarantees the best value. One way to provide such assurance would be for the Department of Defense Inspector General to review and report on the situation; another way would be for Congress to enact legislation providing additional safeguards. Accordingly, we look forward to your reply to the questions set out here within 30 days.

Thank you for your prompt attention to this important taxpayer issue.

Sincerely,



RON WYDEN
United States Senator



HILLARY RODHAM CLINTON
United States Senator