

Congress of the United States
Washington, DC 20515

November 20, 2014

Stuart Bradie
President and Chief Executive Officer
KBR, Inc.
601 Jefferson Street
Houston, TX 77002

Dear Mr. Bradie:

We are writing to follow up on the letter Ranking Members Cummings and Tierney sent to KBR on April 1, 2014, requesting documents and information related to the company's use of non-disclosure agreements. That request followed press reports that KBR required its employees to sign non-disclosure agreements when it conducted internal fraud investigations that prohibited those employees from discussing the substance of any allegations without the company's authorization.¹

While we appreciate that KBR's outside counsel has briefed staff on several occasions and made assurances that the company has never "invoked" a non-disclosure agreement to prevent a whistleblower from cooperating with an investigation, these briefings and the limited production of documents since the initial request have failed to answer basic questions and address the serious concerns about your company's use of non-disclosure agreements.

On May 16, KBR's outside counsel produced a one page example of a non-disclosure agreement used by the company. This document confirmed that KBR expressly prohibited employees or agents from discussing allegations of wrongdoing without the company's authorization. For example, this non-disclosure agreement states that an employee or agent is "prohibited from discussing any particulars regarding this interview and the subject matter discussed during the interview, without the specific advance authorization of KBR General Counsel."² The agreement further states: "[T]he unauthorized disclosure of information may be grounds for disciplinary action up to and including termination of employment."³

The substance and potential enforcement of this non-disclosure agreement raises significant concerns about whether it violates the False Claims Act, whistleblower protection statutes, and the Defense Federal Acquisition Regulation Supplement. The provisions of this

¹ See, e.g., *Lawsuit Brings to Light Secrecy Statements Required by KBR*, Washington Post (Feb. 19, 2014) (online at www.washingtonpost.com/world/national-security/lawsuit-brings-to-light-secrecy-statements-required-by-kbr/2014/02/19/6e2a8818-9998-11e3-b88d-f36c07223d88_story.html).

² KBR, Confidentiality Statement (KBR-C2014-00001).

³ *Id.*

non-disclosure agreement could lead a reasonable person to conclude that he or she could not provide critical information about possible wrongdoing to Congress, the Inspectors General, or other competent authorities without facing negative consequences. The personalized nature of this non-disclosure agreement—signed and witnessed by two individuals during an in-person interview—combined with the coercive, explicit threat for failing to comply could chill potential whistleblowers who might report fraud, waste, or abuse involving U.S. taxpayer dollars.

In light of this new information, we request that KBR provide:

1. All complaints or tips submitted to KBR from employees, subcontractors, or any other individuals from 2002 to present;
2. For each complaint or tip submitted from 2002 to the present:
 - a. the date the complaint or tip was submitted;
 - b. a description of any internal investigative steps taken in response to the complaint or tip;
 - c. a description of any disciplinary action taken relating to the complaint or tip;
 - d. a description of the disposition of the complaint or tip;
 - e. whether a confidentiality agreement was in place for any employee, subcontractor, or other individual who submitted the complaint or tip or was subsequently interviewed in connection with the complaint or tip;
 - f. whether the individual who submitted the complaint or tip or was subsequently interviewed in connection with the complaint or tip requested or was subsequently authorized to discuss the matter outside KBR;
3. Copies of **any and all** non-disclosure agreements entered into by KBR or its agents in connection with the company's Code of Business Conduct investigations from 2002 to present, as well as the identities of any outside counsel or other parties who assisted with drafting such agreements;
4. All policies and procedures relating to the use, application, enforcement, or waiver of non-disclosure agreements in relation to internal complaints, tips, and investigations;
5. A list of all instances in which KBR has disclosed the results of a Code of Business Conduct investigation outside the company, including a general description of the investigation and the underlying allegation, the entity to whom the referral was made, the date of referral, and the disposition of the matter; and
6. A list of all instances in which the results of a Code of Business Conduct inquiry or investigation were made available to KBR's Board of Directors for action,

Mr. Stuart Bradie

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including a general description of the investigation or inquiry, the action for consideration by the Board, and the disposition of the matter before the Board.

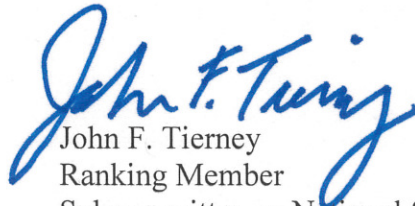
Please provide the requested documents and information by December 12, 2014. If you have any questions about this request, please contact Peter Kenny or Krista Boyd with the House Committee on Oversight and Government Reform at (202) 225-5051 or Margaret Daum with the Senate Committee on Homeland Security and Governmental Affairs Subcommittee on Financial and Contracting Oversight staff at (202) 224-7155.

Thank you for your cooperation with this request.

Sincerely,



Elijah E. Cummings
Ranking Member
House Committee on Oversight and
Government Reform



John F. Tierney
Ranking Member
Subcommittee on National Security
House Committee on Oversight and
Government Reform



Claire McCaskill
Chairman
Subcommittee on Financial and Contracting Oversight
Senate Committee on Homeland Security and Governmental Affairs

cc: The Honorable Darrell E. Issa, Chairman
House Committee on Oversight and Government Reform

The Honorable Jason Chaffetz, Chairman
Subcommittee on National Security
House Committee on Oversight and Government Reform

The Honorable Ron Johnson, Ranking Member
Subcommittee on Financial and Contracting Oversight
Senate Committee on Homeland Security and Governmental Affairs