

COMMITTEE ON GOVERNMENT REFORM
TOM DAVIS, CHAIRMAN



MEDIA ADVISORY

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Government Reform Committee to Examine
Contracting and Rebuilding Efforts in Iraq

Committee's Fourth Look at Enormous Task of Reconstruction

What: Government Reform Committee oversight hearing:
"Contracting and Rebuilding of Iraq: Part IV"

When: THURSDAY, JULY 22, 2004, 10:00 A.M.

Where: ROOM 2154, RAYBURN HOUSE OFFICE BUILDING

Background:

Government contracting is difficult enough under normal circumstances. Add in the urgency and inherent dangers of a war zone, and the challenge of acquiring needed goods and services becomes quite daunting. The Committee hopes to continue to separate fact from fiction and truth from rhetoric through its fourth hearing into Iraqi contracting and reconstruction efforts.

In October 2003, March 2004, and June 2004, the Committee held hearings on coalition efforts to rebuild Iraq and the contracting process. In addition, Chairman Tom Davis has twice led congressional delegations to Iraq to observe reconstruction efforts and to gain a better understanding of the vast network of government agencies and contractors who are performing the critical work on the ground.

This hearing will focus on the issues involved in the Army's Logistics Civil Augmentation Program (LOGCAP) and the early contracts in the Restore Iraqi Oil (RIO) program. Representatives of the primary contractor, Kellogg Brown and Root (KBR), will testify. Several former employees of KBR will also give testimony. Dr. Steven Kelman, the renowned Professor of Public Management at the Harvard University Kennedy School of Government and former Director of the Office of Federal Procurement Policy under the Clinton Administration, will provide testimony concerning

our acquisition system and how it balances the often-urgent need for goods and services in an emergency environment with protections against waste and abuse.

KBR, a subsidiary of the Halliburton Company, is the major prime contractor executing the Army's Logistical Civil Augmentation Program. LOGCAP was established in 1985 to manage the use of various civilian contractors who perform services in support of Defense Department missions during times of war and other military mobilizations. LOGCAP has been used to support DoD missions from Somalia to Afghanistan to Iraq. It was used effectively during military operations in Bosnia and Kosovo. The effort in Iraq is the largest in the history of the LOGCAP program. As of May, the estimated value of the contract services in Iraq is \$5.6 billion. The LOGCAP contractor in Iraq provides such logistics and engineering services as food preparation, laundry, housing, and construction in support of military operations.

This particular contract held by KBR is the third iteration of the Army LOGCAP contract. The first was awarded to KBR in 1992, the second was awarded to DynCorp in 1994 and the current contract awarded to KBR in 2001. All three contracts were awarded under competitive acquisitions.

The LOGCAP contract was awarded on a cost-plus award fee basis. Such contracts provide that the contractor is only to be reimbursed for reasonable, allowable, and allocable costs incurred as prescribed in the contract. A cost-plus award fee contract provides financial incentives based on performance. The logistical needs of our military in Iraq and Kuwait are massive, time sensitive, and ever changing. In order to meet these needs, KBR must be able to react swiftly. These requirements dictate the use of a cost-type contract. Cost-type contracts are commonly used where, as in Iraq, urgency and uncertainties do not permit costs to be estimated with sufficient accuracy to permit the use of fixed-price contracts.

Work under LOGCAP is based on task orders issued by the Army. These can be very large and complex. For example, task order Number 59 is valued at over \$3.8 billion. In order to meet the needs of the task order, KBR either does the work itself or it negotiates for subcontractors, or a combination of both.

Defense auditors have criticized KBR for inadequate cost estimating and problems with its accounting and documentation practices. There are a number of outstanding issues concerning KBR, particularly concerning food services. These types of issues often arise in the context of cost-type contracts and are a part of the normal contract oversight process. The issues tend to be exacerbated here because of the large amounts of money involved and the extremely difficult conditions in Iraq.

There is a significant issue regarding what is called the "definitization" of task orders issued under LOGCAP. Definitization refers to negotiations between the contractor and the Government to come up with an agreed upon cost estimate for the work. The majority of the LOGCAP task orders have yet to be definitized because the orders were issued with great urgency, were very rough, were changed often during performance and because KBR has had great difficulty in providing properly documented cost estimates. While this process is ongoing, there is not much incentive for the

contractor to control costs, as increased project costs can potentially result in a higher fee.

Once the order is definitized and the cost estimate finalized, the fee is frozen and cannot increase with increased costs. In addition to reimbursement for the accrued costs, consideration of the award fee cannot begin until task orders are definitized. While there is plenty of blame to go around for this situation – trying conditions, inadequate government oversight, requirements that change continually, and KBR’s poor accounting system and practices – the Committee understands that KBR is making progress on its bookkeeping, and the definitization process is well underway. A recent Coalition Provisional Authority IG report indicates that KBR has turned the corner on this problem.

The many civilian contractors working to rebuild and improve conditions in Iraq face enormous challenges and obstacles -- making this effort unlike any other attempted by the United States. While progress has been made, there are still major obstacles facing our military, government civilians and contractors. The Committee recognizes that there have been mistakes, which is why it continues to hold hearings, request documents and receive briefings on a daily basis. The contracting process is not always pretty, and decisions made under the pressure of combat are not always as lucid as those made under less threatening conditions.

WITNESSES

Panel One:

Mr. Mike West, Former Labor Foreman, KBR

Mr. James Warren, Former Truck Driver, KBR

Mr. David Wilson, Former Truck Driver, KBR

Ms. Marie deYoung, Former Logistics Specialist, KBR

Panel Two:

Mr. Alfred Neffgren, Chief Operation Officer, Americas Region, KBR Government Operations

Mr. William Walter, Director of Government Compliance, KBR Government Operations

Mr. Charles “Stoney” Cox, Former Project Director, Restore Iraqi Oil (RIO), Project Director, KBR Government Operations

Mr. Keith Richard, Regional Project Manager, Theater Transportation Mission, LOGCAP III, KBR Government Operations

Panel Three:

Dr. Steve Kelman, Weatherhead Professor of Public Management, Harvard Kennedy
School of Government
Former Director of Office Federal Procurement Policy, Clinton Administration

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