

**Opening Statement of Chairman Tom Davis  
Committee on Government Reform  
“Contracting and the Rebuilding of Iraq: Part IV”  
July 22, 2004**

I would like to welcome everyone this morning to our Full Committee oversight hearing entitled “Contracting and the Rebuilding of Iraq: Part IV.” This is the fourth in a series of hearings the Committee has held on challenges involved in the execution of contracts for rebuilding Iraq amid the chaos and dangers of war.

Just a few short weeks ago, the Coalition Provisional Authority turned over the reins of government to the people of Iraq. This transition to self-government shows that our commitment to the Iraqi people is genuine and real. Yet we still have much to accomplish, and the road ahead is still difficult and perilous. American soldiers and civilians continue to lose their lives protecting freedom. Make no mistake -- as long as we have the resolve to finish the job, I am certain we will prevail.

As a major part of our mission to bring peace to Iraq and the surrounding area we have committed a substantial amount of taxpayer money. To that end, we rely on our military and civilians to carry out day-to-day activities, which are essential to security and the rebuilding process. The military has been nothing short of superb, and the unsung heroes are the many civilians in Iraq who, like the military, work tirelessly and under very dangerous conditions. The majority of civilians working in Iraq are contractors. The sacrifices these people make are inspiring. I believe history will give them the credit they deserve for changing the face of this region.

I cannot emphasize how hard it is to conduct normal business in Iraq, yet we continue to make progress. Nevertheless, whatever the danger and no matter the difficulties, we demand that contractors doing business in Iraq do so in accordance with the governing laws and regulations. I can understand how the difficulties of a war zone can lead to poor record keeping. I know there are those individuals who think they can turn a quick, but questionable, buck because they hope the “fog of war” will cover their actions. And yes, there are bad apples who can turn up wherever opportunity presents itself. Such opportunism cannot be condoned. We are having this hearing today because there are those who believe we have a company, Kellogg, Brown and Root, that is wasting tax dollars or abusing its contracting role, or even defrauding the U.S. taxpayer.

I happen to disagree. I have yet to see any serious evidence of this. What I see are occasional failures to communicate, inattentiveness in adhering to strict business procedures, and a less than perfect accounting process.

Of course, in a perfect world, we would have contractors that would accomplish the mission and maintain perfect peacetime business practices with the appropriate paper trails. But even when the best business practices are not maintained, the taxpayer is still protected because our government procurement system prohibits reimbursement to KBR and other contractors until

they have shown the military that the costs presented, as determined by the contracting officer, are reasonable, allocable to the contract, and allowable under the government's cost principles. We have seen a display of this process through the various Defense Contract Audit Agency reports on cost issues that have been made public. To me, these reports show that the oversight process is alive and working. They reveal issues of contract interpretation and cost reimbursement that are not at all unusual in large, complex cost-type contracts.

The last hearing we held on Iraq contracting, little more than a month ago, explored those issues with those responsible for contract management and oversight. Because of the overheated political atmosphere surrounding the war in Iraq and a misplaced concern about use of KBR as a contractor in particular, we are holding yet another hearing on Iraq contracting. But this time, instead of contracting experts, we are hearing from so-called whistleblowers who will air their complaints against KBR. We will also hear the firm's reaction to those complaints.

Today, we will hear from representatives of Kellogg, Brown and Root, a subsidiary of the Halliburton Company and the prime contractor on two of the larger contracts associated with Kuwait and Iraq -- the LOGCAP and initial Restore Iraqi Oil (RIO) programs. I want to publicly thank KBR for testifying today. They came on their own accord. I, for one, still believe that if it weren't for the fact that the Vice President was the former -- and I emphasize former -- CEO of the parent company we wouldn't even be here today. Politics is driving this agenda, and I suspect that not even the truth will keep the detractors at bay. Despite this, KBR has decided to answer, under oath, allegations that continue to be shopped to the media. In fact I would like to highlight that point by submitting for the record -- without objection -- a Washington Post article dated July 20, page A-15 under the White House Notebook, by Dana Milbank titled "The Kerry Campaign One-Word Weapon." The gist of the article is how the Democrats are using Halliburton as fodder for the presidential campaign.

However, before we hear from the representatives of KBR we will first hear testimony from former employees who believe they personally witnessed waste and abuse. I'm afraid that it will become clear that these individuals are far from experts in government contracting and have, for various reasons, some personal bias against their former employer.

Although the minority has worked with these witnesses for a long time, in the case of Ms. Marie deYoung, the minority knew of her allegations eight months ago -- they were brought to our attention only two months ago. At that time, the Ranking Member demanded an immediate hearing without allowing me and my staff to evaluate their claims to determine whether a hearing would be appropriate. After a preliminary evaluation, I agreed to a hearing involving some of the whistleblowers only to see the minority post whistleblower statements on their website, which also led to television news interviews: Again, all without any concern for the validity of their statements. In other words, the minority appears to care more about sensational accusations than the facts. Indeed, I decided to hold this hearing and have the whistleblowers testify to help put them in context, to help us move beyond rhetoric to the truth.

I directed my staff to verify their accusations even though I thought it should have been incumbent on the minority to do this. For those of you who came hoping to hear these witnesses' firsthand evidence of waste, fraud, and abuse by KBR, I am afraid you should brace

yourselves for disappointment. The accusations leveled by the whistleblowers against KBR, both in their written testimony and through personal interviews, are either flat out wrong or at worst minor or represent a naïve or myopic view of contracting in a wartime environment.

Ms. Marie DeYoung's experiences in Kuwait led her to accuse KBR of waste and abuse. Her claims focus on what she calls poor oversight of the subcontractors who, she believes, were fleecing the taxpayer. Ms. deYoung also claims that KBR wastefully leased a five-star hotel for its employees when the employees should have been staying in air-conditioned tents on the US military base. Ms. deYoung, is quick to jump to conclusions without knowing the whole story. As for leasing the five-star hotel, KBR is guilty of this. But, let me put that in context. I have been to Kuwait. In Kuwait most hotels start at 5-star. Kuwait isn't like any country you have ever been to. It is rich. That is why Saddam wanted it so badly. It seems that KBR had little choice. The only real choice was to pick the particular five-star hotel. And, what Ms. deYoung did not know was that KBR wanted to be stationed on the base and had even requested to house employees on the base. A military base is more secure than a hotel, and the base is where the work is. As I understand it, the military, for good reasons, didn't want KBR on the base. By the way, I understand, these hotel rooms had many occupants, sometimes up to 5-6 people in the room at once.

The majority of Ms. deYoung's allegations concern subcontract administration. In her interview with Committee staff, she painted herself as a contract specialist who uncovered subcontractors overcharging for goods and services. I think you will see her math skills leave a little to be desired. She attacks the kind of contracts the minority has been touting. The accusations surrounding soda and laundry are tied to fixed-price contracts. Again, this all seems to be explainable, or at worst relatively minor, when the entire story is told.

Mr. Mike West's problems started early with KBR. He claims that prior to starting with the company he negotiated a starting salary of \$130,000 only to learn his salary would be \$82,000 per year, based on a 12-hour-day, 7-days-per-week schedule. Although Mr. West felt he was cheated, he decided to accept the salary and join KBR as a labor foreman. In his interview with Committee staff, Mr. West often complained that he had to wait. Wait to get from point A to point B. Wait to be assigned work. Wait to get a ride back to the States. As a former military member myself, I am familiar with this feeling. We call that "hurry up and wait." Hurry up and wait isn't waste and abuse, it is unfortunately part of the logistical challenges that are presented when working with the Army that changes its mind more often than not. Mr. West did eventually work, but he didn't like the work and left after two months. The experience left a bad taste in his mouth, so he quit. Obviously, this type of environment didn't suit Mr. West. Unlike working in the States, the atmosphere in Iraq wasn't conducive to plans being carried out like clockwork. It's just the opposite. In the early days after the war, adapting to the situation was more the rule than the exception. I know my colleagues who traveled with me to Iraq can verify that this is true.

James Warren and David Wilson are truck drivers who drove convoys in Iraq. They both have similar stories, and I see that their similarity extends to the lawyers they brought here with them today. The gist of these gentlemen's allegations has to do with what they see as waste and abuse of taxpayer assets. They claim that poor maintenance and the lack of proper spare parts

led to trucks breaking down, and a lack of interest in conserving assets resulted in disabled vehicles being destroyed on site rather than fixed or towed. After all, these weren't KBR's trucks so why should they care? Again, what we have here are accusations made with tunnel vision. I think we will all see when we have the opportunity to hear the whole story that most of the actions of the contractor were likely out of its control here and make sense given the security concerns in running convoys in Iraq. Yes, it makes sense to retrieve the truck, and I understand how a professional truck driver loathes seeing a piece of equipment like that being destroyed. However, an \$85,000 truck is simply not worth a life, whether it is one of our soldiers or a civilian who might be in harm's way without the protection of the convoy. Mr. Warren and Mr. Wilson ought to be grateful that they returned from Iraq unharmed.

These truck drivers, like the rest of these whistleblowers, believe that what they saw while working in Kuwait and Iraq were not simply examples of paperwork problems or the "hurry up and wait" environment, but were instead the result of wanton and careless disregard of KBR towards American taxpayer funds. Our acquisition system is a complex web of regulations and safeguards put in place to protect the taxpayer. A person with a view of only a small part of an entire process cannot see that there are many players and considerations involved with decisions that, in wartime especially, might sometimes overlook some formalities to ensure that the mission is accomplished and that no one gets hurt. Unfortunately, even with these goals in mind, this conflict has cost 47 KBR employees their lives.

I believe that tunnel vision, inexperience, and naiveté are behind most of these witnesses' allegations. But to be honest, I fear some are here because they have ulterior motives, whether it is a book idea or a try at the litigation lottery jackpot. Today the truth will come out. I tried to convince the minority that there was nothing here, but again, there are some who aren't interested in constructive oversight, but only oversight that advances their narrow political agenda.

As we saw clearly in past hearings the contract oversight process is hard at work here. All the charges under the LOGCAP contract will come under the scrutiny of government auditors and will not be paid unless the contracting officer is confident they are reasonable, allocable to the particular contract and allowable under the government's cost principles.

Our second panel today is made up of representatives of Kellogg Brown and Root (KBR), a subsidiary of the Halliburton Company. KBR is the major prime contractor executing the Army's Logistical Civil Augmentation Program (LOGCAP). LOGCAP was established in 1985 to manage the use of various civilian contractors who perform services in support of DOD 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 last 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. I think it is important to keep in mind that all three of these 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 such 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.

Indeed, 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.

KBR has told Committee staff that they are prepared to answer all the questions relating to the whistleblowers and other allegations that have been leveled against them through the press or by congressional critics. This includes answering dining facility charges, kickback schemes, gasoline subcontracts and other allegations of overcharging. We look forward to hearing their side of the story.

In closing I want to ask that everyone here, especially my colleagues and the members of the media, to stick around and listen to our third panel witness, Dr. Steve Kelman. Dr. Kelman is the Weatherhead Professor of Public Management at the Harvard Kennedy School of Government and the former Director of the Office Federal Procurement Policy under the Clinton Administration, and he is above the political fray.

Dr. Kelman is here to offer some general observations about our acquisition system and its operations in a wartime atmosphere in Iraq. The minority has questioned the contracting activities in Iraq, and I can think of no better person to testify as to whether or not our acquisition system and its contract vehicles can do the job in Iraq. In many ways, Dr. Kelman's testimony is the most important today.