

Senate Democratic Policy Committee Hearing
“An Oversight Hearing on Contracting Abuses in Iraq”

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September 10, 2004

I would like to thank Chairman Dorgan and all the members of the Senate Democratic Policy Committee for this opportunity to appear before you today. I commend the Committee for its continued oversight of Iraq contracts and truly hope that substantive contracting improvements result – improvements that will protect the interests of American taxpayers rather than those of private contractors.

I am the Executive Director of the Project On Government Oversight (POGO) which investigates, exposes, and seeks to remedy systemic abuses of power, mismanagement, and subservience by the federal government to powerful special interests. Founded in 1981, POGO is a politically-independent nonprofit watchdog that strives to promote a government that is accountable to the citizenry.

POGO has investigated and authored reports proposing solutions for problems in government contracting for over twenty years. One of these reports, “Federal Contractor Misconduct: The Failure of the Suspension and Debarment System,” outlined the government’s history of allowing major contractors to rip off the taxpayer – and, not infrequently, endanger national security in the process – without any repercussions.

To support this report, we created a Federal Contractor Misconduct Database, which is available on our website. We have limited the companies in the database to the biggest government contractors – companies like General Electric, Lockheed Martin and Boeing have typically topped the misconduct list. This year, Halliburton will join them. Last year alone, Halliburton saw its defense contracts rise from \$468 million to \$3.92 billion, leaping from 37th to 7th in DoD’s rankings of top contractors. These large Indefinite Delivery Indefinite Quantity (IDIQ) contracts with cost ceilings *up to \$9.4 billion* for its LOGCAP III contract and *up to \$8.2 billion* for its oil restoration contract are the reasons for Halliburton’s tremendous leap in those rankings.

Halliburton’s performance in Iraq has made the public far more conscious of the ongoing mess known as federal contracting. Rather than throwing up their hands because there’s nothing to be done, it is important for the public to realize that there is something the government can do to protect the public’s interest. The government can and should suspend a contractor from future government contracts when their conduct causes the public to lose faith in them.

The problem is, that the government rarely uses this tool when it comes to large contractors. For example, even when Boeing and Lockheed Martin repeatedly violated the Arms Export Control Act by selling military hardware and technology to restricted countries, or when those companies sold defective weapons to the Department of Defense that resulted in American soldiers' deaths, the government did not suspend or debar those companies. So, we should not be surprised that the government has not yet exercised its right to protect the public from Halliburton's irresponsible behavior.

My message to you today is that Halliburton should be suspended or even permanently debarred from receiving future government contracts. On Tuesday, *The Wall Street Journal* published a story detailing Pentagon plans to debundle Halliburton's LOGCAP III contract and put out the work for competitive bid. If Halliburton bids on those new requests for proposal, we believe the American taxpayers will be placed in further jeopardy. Why should this company be given contracting dollars without any evidence that they have fixed the inadequate internal controls that have caused the public, Congress, and government entities so much concern?

We do not make the recommendation to suspend Halliburton lightly. Earlier this year, there were such calls, yet POGO believed they were premature. At the time, it was unclear that Halliburton's business practices were so flawed as to take this dramatic step. That is no longer the case.

On August 11, 2004, *The Wall Street Journal* broke the story that Halliburton was unable to "adequately account for more than \$1.8 billion of work in Iraq and Kuwait." Once confirmed, POGO released a statement calling for the government to suspend or debar Halliburton from receiving future government contracts.

Days later, Representative Henry Waxman released a memorandum from the Defense Contract Audit Agency (DCAA) to the Department of the Army. That memorandum, which I have attached to my written testimony to be submitted for the record, reaffirms POGO's opinion that Halliburton should be suspended or debarred from future government contracts. DCAA's audit showed that Halliburton's subsidiary Kellogg Brown and Root (KBR) could not account for \$1.8 billion in charges to the government out of a total \$4.3 billion spent on LOGCAP III task orders. Those unexplained charges represent 42% of the total value of those task orders. DCAA's memo stated:

Inadequate proposals have, and will continue to, result in significant delays in issuing our audit reports, significant unsupported costs, and/or reports containing an adverse opinion, which impairs the Government's ability to negotiate contracts in a timely manner....

We have attempted to work with KBR in establishing the types of proposal support needed to assist our audit effort.... To date, KBR has not provided this basic supporting data for the significant task order proposals. While contingency issues may have had an impact during the early stages

of the procurements, clearly, the contractor should have adequate supporting data by now.

Your June 15 letter to KBR stated you would continue to assess the timeliness and quality of cost proposals received and progress made toward successful definitization. We do not believe the quality of KBR's proposals has improved. In the case of [one] proposal, each successive update continues to be significantly deficient. It is clear to us KBR will not provide an adequate proposal until there is a consequence.

We agree that the government needs to hold Halliburton accountable for wasting or essentially losing nearly \$2 billion in taxpayer dollars.

By law, the federal government is prohibited from doing future business with risky companies. It should be noted that the suspension and debarment system is not intended to be used as a punishment for contractor misconduct. Instead, it is solely intended to protect the American taxpayer from contractors that are considered "not currently responsible." I would submit this describes Halliburton's conduct.

The government warned Halliburton in February 2004 that it had detected problems with Halliburton's accounting. The company was given multiple extensions to justify the unexplained costs before its payments were withheld. Despite those extensions, Halliburton remains unable to explain nearly \$2 billion of its charges.

Halliburton is also being investigated for overcharging for fuel shipped from Kuwait and meals provided to our troops. Unfortunately, overcharging is the tip of the iceberg of Halliburton's misconduct rap sheet. The U.S. government and some foreign governments are investigating the company and its subsidiaries, including KBR, for additional instances of alleged corporate misconduct. For example:

- Halliburton paid back to the government \$6.3 million because its employees took kickbacks in exchange for awarding a Kuwait-based company with a supply contract.
- U.S. and foreign governments are probing bribery allegations involving Halliburton in Nigeria.
- Halliburton is alleged to have conducted business in states that sponsor terrorism in violation of U.S. trade restrictions – specifically Iran and Libya.
- The company agreed to pay the SEC over \$7.5 million in penalties for securities law violations.
- The government has launched inquiries into possible overcharges for work performed during 1996 through 2000 under a contract in the Balkans. Based on an internal investigation, Halliburton credited the government

approximately \$2 million during 2000 and 2001 related to its work in the Balkans as a result of unsupported billings.

- Halliburton has settled asbestos and silica personal injury claims, causing some of its subsidiaries to file for Chapter 11 bankruptcy protections.

Halliburton's irresponsible behavior presents the clearest case for suspension or debarment by the federal government that POGO has seen in years.

POGO believes that if the government had a robust suspension and debarment system, many of the largest contractors would long ago have been temporarily suspended from new government contracts, and might even have cleaned up their act as a result. The fact that the system is rarely used to protect taxpayers from large contractors may be one reason why the contractors appear to have such contempt for the system. As evidenced by Halliburton's corporate culture, the system is meaningless.

Self-regulation does not provide adequate controls to ensure that taxpayer dollars are properly spent. Halliburton has had over six months to account for its charges and it has not been able to do so. Suspension or debarment, at this point, is the government's best recourse in protecting the public. There is no reasonable justification to continue entrusting this company with taxpayer dollars. Again, I thank the Committee for its continued oversight over Iraq contracts and would be happy to answer any questions.