

## **Senate Democratic Policy Committee Hearing**

### **“An Oversight Hearing on Waste, Fraud, and Abuse in U.S. Government Contracting in Iraq”**

**Monday, June 27, 2005  
1:30 p.m. - 3:30 p.m.  
138 Dirksen Senate Office Building**

#### **Transcript**

DORGAN:

We will call the hearing to order.

This is a hearing of the Democratic Policy Committee in the United States Senate. And we are joined today by my colleague, Senator Lautenberg, and my colleague from the U.S. House, Congressman Waxman.

Let me make an opening statement and call on my colleagues for an opening statement, following which, we will have testimony from witnesses.

Today, the Policy Committee is holding a fifth hearing in a series of hearings on serious problems with Iraq contracting practices. In the past, the hearings we have held have disclosed numerous stories of waste, fraud and abuse involving a good many contractors, including and especially Halliburton, the major U.S. contractor in Iraq.

We've heard at hearings, for example, the billing of 42,000 meals a day for our troops where only 14,000 meals a day were served. We've heard about Halliburton overcharging for fuel deliveries at twice the price that other suppliers were offering, overcharges that added up to hundreds of millions of dollars.

We heard about new \$85,000 trucks abandoned or torched along the road if they got a flat tire or experienced mechanical problems, such as a plugged fuel pump because the company couldn't be bothered to fix the problems.

As we've learned about other abuses and other contractors, we've heard testimony about a company called Custer Battles at a previous hearing, in which the administration awarded over \$100 million in contracts to provide security in Iraq to Custer Battles.

We saw a photograph of \$2 million in cash being placed in plastic bags -- by the person who placed it there who testified -- as a government down payment to the company.

We've heard how since Custer Battles went on to defraud the Pentagon with massive over billings through sham companies in the Cayman Islands and elsewhere.

This afternoon, we will hear additional testimony about the genesis of some of the waste and abuse and what I think is fraud involving Iraq contracts.

Let me say, as I've said at previous hearings, we have, at all of our hearings, preferred that the oversight hearings be held in the authorizing committees, but the authorizing committees here in the Congress want very little to do with these subjects, and while they have been requested to hold hearings they have refused to hold these hearings. And we have said, if the authorizing committees will not hold them we will hold them.

We have also had an open invitation to members of both political parties to join us at these hearings. We have always asked members of the administration.

And we have asked, in cases where appropriate, the heads of the companies involved, such as the CEO of Halliburton, who himself had written a letter to the editor to The Washington Post complaining about information that was disclosed by whistleblowers at the hearings about Halliburton and said that it could have been cleared up simply by asking him or inviting him -- we did invite the CEO of Halliburton on numerous occasions, including to this hearing, and he chooses not to appear.

Let me just mention that there is a historical precedent for holding oversight hearings.

It is a disgusting thing to see profiteering during wartime, and we see evidences of that now and no one's seeming to care much about it.

In 1941, as our country was about to enter World War II, Harry Truman, a Democratic senator, launched an investigation into reports of widespread waste, corruption and mismanagement in the war effort. That was a time when there was a member of his party in the White House who, I'm sure, was not pleased with the launching of that investigation -- a Democratic senator investigating fraud, waste and abuse during a Democratic administration.

But for Truman, this was not about partisanship.

And for us it is not about partisanship. His work led to the creation of a bipartisan committee to look into those problems wherever they might lead, that initial budget and that committee of \$15,000, and they turned out to be some of the most cost-effective investigations in the history of our country.

By some accounts, the Truman committee saved the taxpayers over \$15 billion in 1940s dollars.

From its creation in 1941 until its expiration in 1948, that committee held hundreds of public hearings that discovered and exposed corruption and mismanagement in the wartime production program.

I believe strongly we need something like that today.

I and my colleagues, Senator Durbin, Senator Lautenberg, we've offered amendments of that type to the United States Senate without being successful.

Today we're going to have four witnesses and I thank them for coming forward, thank them for their courage and being willing to speak up publicly. It is not easy to do that. It is easier, perhaps, to just decide not to take any risks.

But I think especially at a time when our country is at war, when our hearts break for the latest news of deaths and injuries to our troops, the men and women who wear America's uniform, I think it honors them and serves them to understand what is happening and to make certain that those who are engaged in contracting for that war are doing so in a manner that is legal, is fair, is honest.

And we had a list of charts that I wanted to just show a few headlines of just to describe one more time why we feel we are obligated to hold these types of hearings.

Let me just go through just a few headlines.

And I know headlines aren't the entire story, but I will say that we are releasing today -- as I describe that -- we are releasing a report that shows that the Pentagon's own auditors have concluded that Halliburton has overcharged by more than \$1 billion -- these are the Pentagon's own auditors -- and that Halliburton can't provide substantiating receipts for another \$440 million.

"Ex-Halliburton Workers Allege Rampant Waste."

"U.S. Questions More Halliburton Meal Charges." That's the one they were charging for 42,000 meals a day for the troops and serving only 14,000 meals.

"Millions in U.S. Property Lost in Iraq, Halliburton Claims Figures Are Only Projections."

Well, I could go through nine or 10 of these exactly the same headlines and, frankly, the Congress, the authorizing committees want nothing to do with it. They don't want to hold any hearings to investigate it and because they won't, we will.

And, again, let me thank those who are willing to come forward and give us their information.

DORGAN:

The first witness today will be Bunny Greenhouse, a top civilian -- the top civilian contracting official at the U.S. Army Corps of Engineers. In that position, she's responsible for reviewing all contracts worth more than \$10 million. And she, according to all reports, objected to special treatment for Halliburton on a number of occasions and for that has paid a price in her career.

The second witness, Rory Mayberry, is a former Halliburton employee who saw firsthand the company's practice of overcharging for dining hall services, as well as managers of Halliburton -- the efforts of managers to avoid scrutiny of government auditors. He will be testifying by videotape that was done previously because he had to go to Iraq after we had set the date of this hearing and he's not available to attend.

The final witness, Alan Wahler -- witnesses rather, Alan Waller and Gary Butters are executives with the security firm that has contracts to monitor and secure the delivery of Kuwait fuels into Iraq, and they'll describe how Halliburton overcharged for fuel deliveries.

As in the past, we have invited Halliburton officials to be with us. They've chosen not to.

We've also invited members of the Pentagon to be with us and the Corps of Engineers. They likewise have chosen not to.

Let me call on my colleague, Senator Lautenberg.

Senator Reid, I'm sorry. Thank you for joining us.

Senator Lautenberg?

LAUTENBERG:

Thanks very much, Senator Dorgan and our colleague Henry Waxman for joining in, and Senator Reid, the Democratic leader being here to call attention to this situation.

We're taking this opportunity because other ones, as Senator Dorgan mentioned, were not available to us to hold this hearing. And I want to thank Senator Dorgan for the leadership provided on this important issue.

And I also want to thank the witnesses in advance who had the courage to speak up despite some criticism from their employer or criticism for being whistle blowers. But their consciences call on them to speak up and protect their country as best they can.

LAUTENBERG:

That's been their primary motivation.

So I want to note that I -- we want to protect the country and taxpayers, our citizens against waste, fraud and abuse regardless of where it comes from.

But in particular, for me, this has been a very difficult issue because I serve on the Senate Homeland Security and Government Affairs Committee. That's the committee that has jurisdiction over investigations of government operations.

And I formally requested five times, by mail, by phone to hold a hearing on Halliburton's irresponsible actions related to contracting in Iraq.

Every time I requested it just so that we'd get a bipartisan review of this, I was told that, too bad, that it would be duplicative. Duplicative? If that's true, then this country of ours is really in trouble, in other words, if everybody else is looking at it and so worried about it.

But I regret that the chairman of the committee has shied away from investigating the waste of more than \$10 billion of taxpayers' money in the Defense Department contracts with Halliburton.

However, we've had plenty of time in that committee to investigate things like diploma mills and FEMA overcharges and the use of credit cards at the Pentagon. I assure you that there were duplications of those kinds of hearings in other committees.

But unfortunately, the chairman of the Homeland Security and Governmental Affairs Committee has taken a partisan approach, still refuses to hold the hearing.

Now, I'm motivated to get to the bottom of these allegations, first, I want to tell you as a veteran, and second, as a grandfather of 10 grandchildren.

As a veteran, I know that every dollar of our defense budget that's wasted by anybody is a dollar we can't spend on things like body armor, simple things, on appropriate armor for Humvees. We're beginning to catch up with that. But all of this goes on as the death toll mounts.

As a grandfather, I'm concerned that our government is borrowing money hand over fist, digging a hole for our grandchildren and rewarding the richest among us with tax breaks -- what an anomaly that is.

Every dollar wasted on a no-bid contract is a dollar that could have been applied toward reducing the deficit. And I think every senator would want to examine the serious charges involving the misuse and the waste of taxpayers' money.

But the bottom line is the Republican leadership in the Congress is giving Halliburton a free pass.

LAUTENBERG:

And I don't know whether that's because Vice President Cheney still receives a pay check from Halliburton. That goes on through 2007. On that payroll were stock options.

We simply can't turn a blind eye to the massive contracting abuses that have occurred in Iraq involving Halliburton and its subsidiary, KBR, but today we've already heard -- will hear of more outrages.

We will hear a former Halliburton employee describe how the company threatened to move workers to Fallujah in Iraq and other dangerous areas if they talked to government auditors.

That's like mob actions. It's terrible.

Think about it -- they weren't just threatened with the loss of their jobs or a less desirable work schedule; their lives and their safety were threatened if they told the truth publicly.

And that's why I will soon introduce legislation to strengthen whistle blower protection for employees of federal contractors.

We're also going to hear today about Halliburton's restore Iraq oil contract that was a no-bid deal that reaped \$2.5 billion worth of revenues for Halliburton.

Now, Ms. Greenhouse -- and we're grateful to her -- has exposed many abuses in this contract and we appreciate her patriotism.

We also will hear about LOGCAP.

Now, LOGCAP is a cost plus contract. That means that Halliburton gets reimbursed for every dollar it spends whether carelessly or carefully, plus a predetermined percentage of profit.

Well, why be careful if their mission is earning money? And it appears that that's their mission above all.

This is a sweetheart gift to Halliburton, but it's a rip off for taxpayers.

We've seen overcharges by Halliburton for meals for our troops, for gasoline, for soft drinks. The list goes on and on.

And you would think that in light of all of these abuses, Halliburton might be punished, but we can't even get a review of what's taking place with the majority leadership.

There is no accountability in this administration and no accountability in the Senate; instead, Halliburton is being rewarded.

And it's regrettable that the Republican leadership of the Congress has shirked its duty to examine these allegations. And that only adds to the importance of our hearing today.

And once again, Senator Dorgan, I'm grateful to you for calling this hearing.

DORGAN:

Next, let me ask for a statement from Congress Waxman.

He and the House of Representatives have done a great amount of work in this area to raise questions about over billing and overcharges and fraud. He's attempted, as well, to have substantial hearings in the U.S. House on these very issues from the committee of jurisdiction.

They've had a minimum amount of hearings with not the opportunity to have a full airing of these issues, and I really appreciate his work and have invited him to join us as well.

Congressman Waxman?

WAXMAN:

Thank you, Senator Dorgan, for inviting me to join you in co-chairing this important hearing today.

Today's witnesses have significant testimony about an important issue that is not getting enough attention: the mounting evidence of waste, fraud and abuse by private contractors operating at taxpayers' expense in Iraq.

We're also releasing a report today, Senator Dorgan and I are releasing this report about Halliburton's questioned, unsupported costs in Iraq exceed \$1.4 billion.

Before today, the figure that was related to this overcharging was \$400 million. Now we have come up with a report that includes additional audits that bring the figure up to \$1.4 billion.

Army auditors found that Halliburton inflated its cost estimates, charged excessive costs, billed for equipment that wasn't necessary and submitted millions of dollars in duplicate costs.

Halliburton leads the pack in gauging the taxpayers, but under this administration it has company.

Over the last four and a half years, the administration has misspent literally billions of dollars on wasteful and ineffectual federal contracts. Private contractors are raking in millions, but taxpayers are getting soaked.

Administration officials have lots of excuses.

In a recent Los Angeles Times article, one U.S. official argued that "the administration's reconstruction process has not been a waste of money so much as an expensive lesson learned for all parties involved, end quote.

Well, I don't accept this and the taxpayers shouldn't either.

Senator Dorgan and I have been doing oversight work on Halliburton's Iraq contracts for the last two years. We have raised red flag after red flag about Halliburton's egregious overpricing. Yet every time we brought evidence of overcharging to the attention of administration officials, we were ignored, contradicted or offered false assurances.

Congressman John Dingell and I started raising questions about Halliburton's inflated gasoline charges in October of 2003.

The administration ignored these warnings for months.

WAXMAN:

In fact, they claimed that Halliburton, quote, "obtained adequate price competition for the delivery of gasoline to Iraq," end quote.

These false assurances were expensive. They cost the taxpayer millions.

We now know from Defense Department auditors that Halliburton's unreasonable fuel costs ballooned to over \$170 million.

In December 2003 and January 2004, auditors found that Halliburton couldn't manage its costs and advised the Corps of Engineers not to enter into another contract with Halliburton.

So the Corps of Engineers was saying they ought to be very careful about having any future contracts with Halliburton, but they received the same brush off.

The administration response was, "We have our own internal audit process and we haven't turned up any serious wrongdoing or major problems."

Well, I have a simple message for the administration.

Over \$1.4 billion in questioned and unsupported billings is a major problem.

A courageous former Halliburton employee, Marie deYoung came before the House Government Reform Committee to warn Halliburton was charging \$45 for cases of soda and \$100 for bags of laundry. Republicans on our committee said she was naive, inexperienced and flat out wrong. They even derided her openly, saying her math skills leave a little to be desired.

But we now know from Army auditors that Ms. deYoung was right after all, and I'm pleased to see her in the audience today. She testified at the last hearing this group held.

Time and time again, the administration told us that everything was fine, the system was working, no one was fleecing the taxpayers.

Meanwhile, the unreasonable charges were mounting and they're still mounting after two years. Whether the explanation is gross incompetence or deliberate malfeasance, the result is the same: Taxpayers are being bilked.

Perhaps the biggest myth of all is that Halliburton has received no special treatment.

In fact, our report identifies eight specific instances of preferential treatment.

In late 2002, the administration violated federal law when it awarded Halliburton the contract to plan for the takeover of Iraq's oil fields.

In March 2003, the administration awarded Halliburton a five year no-bid contract to restore Iraq's oil infrastructure over the objections of senior career procurement officials, particularly Ms. Greenhouse, who we're going to hear from today.

In December 2003, the administration waived the requirement that Halliburton took over cost and pricing data for its importation of fuel from Kuwait.

WAXMAN:

In January 2004, the administration ignored warnings from Pentagon auditors and awarded Halliburton another \$1.2 billion oil contract.

In August 2004, the administration rejected strenuous auditor recommendations to withhold payments from Halliburton.

In October 2004, the administration hid Halliburton's unreasonable fuel costs from international auditors.

In April 2005, the administration dismissed auditor findings of excessive meal charges and tripled the company's profit for its dining hall work.

And just this month, despite the \$1.4 billion in unacceptable billings, Halliburton was awarded two new contracts worth up to \$1.75 billion.

This special treatment must end.

We need more accountability and fewer excuses. We need honest and effective oversight, not more false assurances.

If Congress and the administration fail to act, it will be our service members in Iraq who ultimately pay the price.

As yesterday's New York Times revealed, about half of the Army's 20,000 Humvees have improvised shielding that leaves their undersides unprotected, and only one in six Humvees used by the Marines is fully armored.

Our priorities are backward.

The billions being squandered on Halliburton and other profiteering private contractors should be used to protect our troops. That's where we ought to be putting our money.

In closing, let me commend Senator Dorgan for holding today's hearing.

His efforts are helping to fill an enormous oversight vacuum. And the witnesses here today have important insights into how we've arrived at our current predicament.

I look forward to their testimony.

DORGAN:

Congressman Waxman, thank you very much.

Senator Reid?

REID:

Byron, thank you very much.

You've done a great job with DPC and this is a tremendous example of the policy committee. And to see the people here indicates an interest in what your subject matter is today.

This is a situation where, as we already heard in the opening statements, the American taxpayer has simply been cheated. I wish I could say it in a different way, but that's it.

We're facing an extremely difficult situation in Iraq, made even more difficult by this administration's mishandling of the war at almost every step -- prewar intelligence failures; failure to go in with enough troops; decision to suspend the Iraqi army and now we're trying to find these people and put them back in, but a lot of them are now part of the insurgency; dramatic failures in reconstruction have all hurt our efforts in Iraq and directly expose our troops to even greater risk.

REID:

I would argue that the contracting irregularities, some of which we're going to hear about this morning -- and I say some of them -- this afternoon, I should say -- will have had a very similar effect.

Insurgencies thrive where there's little hope for a better life.

When conditions fail to improve, ordinary Iraqis, which is most everyone in that country -- the fence-sitters, as some call them -- are more prone to either join those fighting U.S. forces or aid and support them.

U.S. taxpayers have found funds diverted into lining the pockets of fat cat contractors, and there's no better example of that as outlined by Senator Lautenberg.

And to think that when someone raises a question, they would send them to an area that is more dangerous, that's hard to comprehend.

And these monies -- for every dollar that Halliburton gets in excess profits, these are monies that cannot be used to provide jobs to young Iraqi men who now -- some say; there is as much as 60 percent unemployment among Iraqis -- 60 percent.

U.S. taxpayer funds shifted to scam artists cannot be used to provide basic electric services to millions of Iraqi people who go parts of each day, and sometimes all day, without service when the average daytime high in Baghdad frequently approaches 100 degrees.

U.S. taxpayer funds misappropriated by con men cannot be used to provide basic water and sewage services when raw sewage still spews on the streets where many Iraqi children play.

When you fly into Iraq, as I did, and you see those large green patches around Baghdad, that's not good. Those large green patches are a result of (inaudible) sewer running out on the top of the ground.

Finally, U.S. taxpayer funds shifted away from the training of Iraqi security personnel means fewer Iraqis helping troops provide security.

The commander of the 1st Cavalry in Baghdad has said that when his troops were given the resources to work on reconstruction projects, on sewer systems and power lines, for example, the number of threats against his troops went down.

The absence of contracting controls, badly qualified contractors, poor management by inexperienced officials, over billing and profiteering, corruption and a failure to deliver basic service to the Iraqis are not only wrong, they contribute directly to the difficult situation we find ourselves in today in Iraq and make achieving success even harder.

We owe it to our troops and our taxpayers to see that we get this right.

In closing, Chairman Dorgan, let me just say this: I can't get out of my mind one of these hearings you held where they brought in pictures of the cash -- piles of cash that were distributed wherever they thought it should go.

REID:

They played football with bundles of \$100 bills -- you remember that.

That's what we have going on in Iraq and we can't get a committee of jurisdiction within the standards of this Congress to hold a hearing.

We have to do it in this ad-hoc basis through this committee of yours. Thank goodness we have this.

I'd like...

DORGAN:

Senator Reid, thank you very much.

REID:

Could I be excused? I have some other things...

DORGAN:

Absolutely.

Thank you for being here, Senator Reid.

Senator Dayton?

DAYTON:

Very briefly, Mr. Chairman, thank you very much for holding this hearing.

Just to echo what Senator Reid just said: I wrote a letter on December 17th, 2003, to the chairman of the Permanent Subcommittee on Investigations, of which I'm a member, asking that the subcommittee investigate these transactions with Halliburton and other contractors.

Nothing has happened.

And, Representative Waxman, you mentioned just briefly the -- I assume the story (inaudible) yesterday's New York Times about the problems with the armoring of vehicles and the vehicles that are used by the secretary of defense and others that are not available to our troops that are serving in the line of fire in Iraq, Afghanistan and the like.

I learned more from reading this article than I learned as a member of the Senate Armed Services Committee through bipartisan hearings, briefings, classified, top secret -- you name it.

It's symptomatic of the unwillingness of this administration to be honest with Congress, with the American people, to disclose the truth, the facts of what are going on.

Probably because of cases like Halliburton, those facts are not very flattering. But supporting our troops is not just an everyday slogan; it's got to be an everyday practice.

And when failures such as the contracting for armoring of vehicles, when sweetheart contracts resulting in substandard services are allowed to continue, they put our troops at risk, they result -- in the case of these vehicles -- in deaths and permanent injuries, maimings, that otherwise would not occur.

DAYTON:

It's disgraceful. It's not supporting our troops. It's not giving them the support they need and deserve, and this administration needs to be held to account.

Thank you.

DORGAN:

Senator Dayton, thank you very much.

Let me call the witnesses to the witness table if I might.

Ms. Bunnatine Greenhouse is with us today.

And if you would come up to the chair on the left.

Alan Wahler and Gary Butters.

While you're coming to the table, let me make an additional comment very briefly.

I think I probably speak for all of us on this panel to say that we take no pleasure from holding hearings on this issue. We hold these hearings only because the authorizing committees will not.

And Senator Lautenberg said it -- Senator Lautenberg is a veteran of a war -- I think all of us in this country, all of us want to do everything possible to support our troops who, when asked by their country to serve, serve and serve in very difficult and troubled circumstances.

This is not about Republicans and Democrats; it's about right and wrong.

And it is wrong to have a blind eye to what is going on. There is abuse, overcharges, fraud.

To let a few special big companies wallow like hogs in a trough and waste, misappropriate and defraud the taxpayers of millions, tens of millions, perhaps hundreds of millions of dollars, it does no service to supporting American troops.

We don't support our troops by allowing this to continue. And that's the purpose of holding these hearings.

And I will say again, as soon as the authorizing committees -- for example, the committee on which Senator Lautenberg and Senator Dayton serve, both of whom have asked for such hearings -- as soon as they begin to hold the hearings you would expect authorizing committees to hold, we will not continue holding hearings in this venue.

DORGAN:

Until then, we will continue because the American taxpayer requires it, demands it and deserves it.

Let me thank the witnesses for being with us today.

Bunnatine Greenhouse has had a very distinguished career.

I first learned about Bunnatine Greenhouse while I was on an airplane one day reading an article, and the article was about what a nuisance she had been to those that wanted to steer a bunch of no-bid contracts to just one or two special companies.

And this article said Bunny Greenhouse -- I understand Bunny is what they called you -- Bunny Greenhouse wasn't that easy to ignore.

She was the highest-ranking civilian at the U.S. Army Corps of Engineers. Specifically, she was the officer in charge of ensuring that any work contracted out by the Army Corps to private industry from help to building bridges and dams and highways, to support for wartime troops, was granted in a fair and above-board way.

The story I then read described the difficulties that she got into trying to enforce regulations to make sure that what was being handed out in contracts was done in a fair and above-board way.

Based on my knowledge of what has happened, she has paid a significant price for her honesty and her courage, and it is probably not easy for her to come to this venue today.

But let me just say as one senator, and I expect on behalf of my colleagues, I think you do your country a service by speaking out where you think wrong exists.

So, Bunnatine Greenhouse, thank you very much and why don't you proceed with your statement.

GREENHOUSE:

Thank you.

DORGAN:

If you'll pull that microphone as close as you can, we'd appreciate it.

GREENHOUSE:

Thank you, Mr. Chairman.

I, first, would like to apologize for any coughing. I'm just getting over a little bronchial condition so I apologize for that beforehand.

My name is Bunnatine H. Greenhouse.

I have agreed to voluntarily appear at this hearing in my personal capacity because I have exhausted all internal avenues to correct contracting abuse I observed while serving this great nation as the United States Army Corps of Engineers' senior recruitment executive.

In order to remain true to my oath of office, I must disclose to appropriate members of Congress serious and ongoing contract abuse I cannot address internally.

However, coming forward is not easy.

On June 24th, 2005, I met with the acting general counsel of the USACE...

DORGAN:

Could you tell us what USACE is?

GREENHOUSE:

The U.S. Army Corps of Engineers.

During the course of this meeting, it was conveyed to me that my voluntary appearance would not be in my best interest.

I was also specifically advised to clearly state that I do not appear as a representative of the Department of the Army or the United States Corps of Engineers.

I have been involved with government contracting for over 20 years.

On June 9th, 1997, I was sworn in as the principal assistant responsible for contracting the park for the USACE. Back then, the commander of the corps asked me to do what I could to end what could be called casual and clubby contracting practices.

To curb these practices, I required commanders to strictly follow the Federal Acquisition Regulations and began to institutionalize the contracting practices the corps had to follow.

However, as the command structure at the corps changed, there was ever increasing pressure to return to the old ways.

My determination to ensure that the corps strictly adhere to contracting regulations was no longer viewed as an asset and I began to experience an increasingly hostile environment.

The hostility peaked as the USACE was preparing contracts related to the Iraq war.

At this juncture, the interference was primarily focused on contracting activity related to a single contractor, Halliburton subsidiary, Kellogg Brown & Root, KBR.

The abuse I observed called into question the independence of the USACE contracting process.

I can unequivocally state that the abuse related to contracts awarded to KBR represents the most blatant and improper contract abuse I have witnessed during the course of my professional career.

The independence of the USACE contracting process was unquestionably compromised with respect to the issuance of the restore Iraqi oil contract, known as RIO.

I observed firsthand that essentially every aspect of the RIO contract remained under the control of the Office of the Secretary of Defense, OSD. This troubled me and was wrong.

However, once the OSD delegated responsibility for the RIO contract to the Department of the Army, control over the contracting process by the OSD should have ceased.

However, the OSD remained in control over the contracting process.

In reality, the OSD ultimately controlled the award of the RIO contract to KBR and controlled the terms of the contract that was to be awarded even over my objection to specific terms that were ultimately included in the contract.

GREENHOUSE:

As the ramp-up of the Iraqi war escalated, I was increasingly excluded from contracting activity related to the war effort. However, given my position, it was simply impossible to completely exclude me from the process.

When I did gain access to some of the high-level planning meetings related to the implementation of the RIO contract, I sensed that the entire contracting process had gone haywire.

I immediately questioned whether the corps had the legal authority to function as the Army's delegated contracting authority.

The corps had absolutely no competencies related to oil production. Restoration of oil production was simply outside the scope of our congressionally-mandated mission.

How then, I asked, could executive agency authority for the RIO contract be delegated to the USACE?

I openly raised this concern with high-level officials of the Department of Defense, the Department of the Army, and the U.S. Army Corps of Engineers.

I specifically explained that the scope of the RIO contract was outside our mission competencies, such that congressional authority had to be obtained before the corps could properly be delegated contracting authority over the RIO contract.

Exactly why USACE was selected remains a mystery to me.

I note that no aspect of the contracting work related to restoring the oil fields following the 1991 Persian Gulf War was undertaken by the USACE, and there was no reason why USACE should take over the function for the prosecution of the Iraq war.

I further raised a concern over which contract authorized payment for prepositioning work KBR was doing in anticipation of being awarded the RIO contract.

I was generally familiar with the scope of the LOGCAP contract, and was under the impression that the LOGCAP contract was being used to fund the initial preposition work being done by KBR before the Iraq war commenced.

I specifically questioned whether using LOGCAP funding was legal, and insisted that a new contract be prepared.

My concern over this issue ended when I was apparently provided with misinformation that a new contract was being issued. This is the first time I can recall being overtly misled about something as fundamental as the existence of an underlying contract authorizing work to be done.

GREENHOUSE:

I further raised the concern over the basis used to justify the selection of KBR as the sole-source contractor for the RIO contract.

I learned that a specific basis to be used for the selection of the contractor was a requirement that the contractor have knowledge of the contingency plan KBR prepared for the restoration of Iraqi oil.

The inclusion of this requirement meant that the RIO contract would have to be awarded to KBR because no other contractor participated in the drafting of the contingency plan and no other contractor had knowledge of the contingency plan itself after it had been prepared by KBR.

What was particularly troubling about this arrangement was that contractors who normally selected to prepare cost estimates and courses of action such as the work KBR did when it prepared the contingency plan are routinely excluded from being able to participate in the follow-on contract.

The reasons for prohibiting the contractor responsible for preparing the cost estimates and the course of action from obtaining the follow-on contract is obvious. The fact that it was a no-bid, sole-source contract meant that the government was placing KBR in the position of being able to define what the reasonable costs would be to execute the RIO contract and then charging the government what it defined as being reasonable.

Given the enormity of the scope of work contemplated with the RIO contract, the exclusion of the contractor responsible for pricing out the scope of work to be done under the RIO contract should have been an imperative; instead, it formed the basis of awarding the RIO contract to KBR.

#### GREENHOUSE:

Ultimately, I was most concerned over the continuing insistence that the RIO contract be awarded to KBR without competitive bidding for an unreasonable period of time -- two years -- plus the option to extend the contract an additional three years.

I raised this concern with officials representing the Department of Defense, the Department of the Army and the Corps of Engineers.

However, when the final justification and approval of the RIO contract was forwarded to me for signature, after the draft had been approved by representatives of the Office of the Secretary of Defense, the five-year, no-compete clause remained in place.

I could not sign the document in good faith knowing that this extended period was unreasonable.

However, we were about to prosecute a war, and the only option that remained open to me was to raise an objection to this requirement.

Therefore, next to my signature, I hand wrote the following comment: "I caution that extending this sole-source effort beyond a one-year period could convey an invalid perception that there is not strong intent for a limited competition."

I hand wrote this comment directly on the original document because experience had taught me that a separate memo outlining my concerns could inexplicably be lost.

I wrote my comment on the original JNA to guarantee that my concern was not overlooked. Instead, it was just ignored.

The RIO contract was subjected to public scrutiny when, on December 11, 2003, the Defense Contract Audit Agency, DCAA, issued a draft report concluding that KBR overcharged for the purchase of fuel by \$61 million.

#### GREENHOUSE:

However, the fire storm over this issue was significantly dampened a week later when the commander of USACE, Lieutenant General Flowers, took the unusual step of issuing a waiver absolving KBR of its need under the RIO contract to provide cost and pricing data.

The corps simply asserted that the price charged for the fuel was fair and reasonable, thereby relieving KBR of the contract requirement that cost and pricing data be provided.

However, the manner in which the waiver request was prepared and finalized demonstrates that the USACE command knowingly violated the AFARS by intentionally failing to obtain my approval as the PARC.

The evidence suggests that the reasons why I was intentionally kept from seeing the waiver requests were politically motivated and driven by the DCAA's conclusion that KBR had overcharged the government for the fuel by \$61 million rather than whether the granting of the waiver was in the interest of the government.

Significantly, it appears that a concerted effort was undertaken to ensure that I was kept in the dark about the waiver request.

I have every reason to believe that the USACE know I would object to granting of the waiver if it had been presented to me for signature.

So I was specifically kept in the dark and did not learn of the existence of the waiver until I read about it in the press.

Having reviewed the documentation used to justify the waiver, I can unequivocally state that I would not have approved it, because the documentation relied upon to justify the fuel charges as fair and reasonable was grossly insufficient.

Eventually, a copy of the original JNA for the RIO contract was released in response to our Freedom of Information Act request, which prompted "Time" magazine to attempt to find out why I felt it necessary to document my concern.

#### GREENHOUSE:

"Time" magazine contacted the USACE seeking permission for me to be interviewed. I later learned that this caused great consternation.

According to sworn testimony given on October 15th, 2004, by the deputy commander of the USACE, Major General Robert Griffin, the Department of the Army was figuring out how it was going to publicly respond and whether the Army would officially allow me to speak to a "Time" magazine reporter.

According to Major General Griffin, the problem was that I, "Did not" -- in quotes -- "know the Army's story," unquote.

So the Army had to figure out who was going to respond.

The difficult position the Army found itself in, according to Major General Griffin, and I quote, "was because she wrote this informal note at the bottom of this document, which actually makes my case, which is: You shouldn't write on official documents because they get taken out of context. Somebody reads them and there you go."

However, my comment was far from an informal note and it was not being taken out of context. Rather, my concern had found its way to the light of day.

As public pressure mounted, my involvement in past actions related to the RIO contract became a thorn in the side of the USACE.

As a result, stating my concern in writing on the original RIO JNA, and as a result of expressing other significant concerns over contracting matters related to KBR, I was eventually summoned to a meeting on October 6th, 2004, at which time I was issued a memorandum notifying me that I was to be removed from the senior executive service and from my position as PARC.

At that point, I knew that my ability to resolve the issues within the USACE had terminated.

#### GREENHOUSE:

I had no other alternative at that juncture but to file a formal request for investigation with the then acting secretary of the Army and to appropriate members of Congress.

In closing, I would like to thank my attorney, Michael Kohn, and the National Whistleblower Center for the support and unbelievably hard work they have put forth. Without this effort, I could not have survived the political firestorm that burns around me.

Thank you.

DORGAN:

Ms. Greenhouse, thank you very much for your testimony.

I'm going to proceed to receive the testimony from the other three witnesses and then, if you would be available for questions, I would hope that you would be able to stay with us.

Thank you very much.

GREENHOUSE:

Thank you.

DORGAN:

Next, Mr. Rory Mayberry is going to testify via a videotape deposition he did for us. He's originally from Oregon, formerly a funeral director.

Rory Mayberry now works as a medical supervisor for a private contractor providing security and logistic services in Iraq.

From February through April 2004, he worked for the Halliburton subsidiary KBR as a food production manager at Cape Anaconda in Iraq. He left KBR after being punished when he reported overcharges and other problems to government auditors.

Mayberry is currently in Baghdad. He was here, but he had to return to Baghdad. And he gave us a videotape deposition prior to returning to Baghdad and it is about 10 minutes.

And this is Rory Mayberry.

(BEGIN VIDEOTAPE)

MAYBERRY:

My name is Rory Mayberry.

I'm sorry I'm not able to be in person to testify to the committee, but I returned from Iraq on June 14th. I am working as a medical examiner and medical supervisor for a company called Emerging Services.

I wanted to testify today about my experience working with Halliburton in Iraq.

I was hired by Halliburton's subsidiary KBR in January of 2004 as a food production manager for a dining hall in Camp Anaconda, Iraq.

I worked under the Halliburton's LOGCAP contract from February 2004 until April 2004.

When I was assigned to the dining facility, KBR managers informed me that there were KBR practices that were to be followed every day. These practices led to major overcharges.

First, KBR was supposed to feed 600 Turkish and Filipino workers meals according to their customs.

MAYBERRY:

Although KBR charged the government for this service, it didn't prepare the meals. Instead, these workers were given leftover food in boxes and garbage bags after the troops ate. Sometimes there were no leftovers to give them.

Second, KBR charged the government for meals it never served to the troops until late 2003.

Anaconda was a transition site for Army personnel. Because there could be large numbers of expert personnel passing through every day at KBR, KBR would charge for a surge capacity of 5,000 troops per meal. However, KBR continued to charge for the extra head count even after Anaconda was no longer the transition sites.

When I questioned these practices, the managers told us that this is needed and because KBR lost money in prior months when the government suspended some of their dining hall payments to the company.

The managers said that they were adjusting the numbers to make up for what was suspended in the payments.

I would prepare food orders each week in order to get the food we needed at the camp in the coming week.

KBR managers would triple the order every week to bring in as much food as we needed. They did this because they were charging an extra 5,000 troops and weren't actually feeding them. Most of the food went to waste, though.

Third, KBR paid too much for the food itself.

Initially, a company called Tamimi Catering was KBR's subcontractor for the food. Tamimi paid local prices for the food products in the towns and the cities around the base in addition to the orders sent to their main office.

MAYBERRY:

Tamimi's pricing was fair for the conditions of the country.

Then KBR switched to a new supplier, PWC. PWC prices were almost triple from what Tamimi's were. For example, tomatoes cost \$5 a box locally, but PWC prices was \$13 to \$15 per box.

The local price of a 15-pound box of bacon was \$12 compared to PWC's price of \$80 per box.

PWC charged a lot of transportation because they brought food from Philadelphia.

KBR switched from Tamimi to PWC because Tamimi complained about KBR's poor treatment of its staff. They were living in tents with sand floors and no beds.

There were other problems that were not related to KBR costs.

Food items were being brought into the base that were outdated or expired as much as a year.

We were told by KBR food service managers to use these items anyway. This food was fed to the troops -- a lot of these frozen foods, chicken, beef, fish and ice cream.

The trucks that were hit by convoys, firing and bombings -- we were told to go into the trucks and remove the food items and use them after removing the bullets and any shrapnel from the bad food.

We were told to turn and remove the bullets over to the managers for souvenirs.

When I had the military check some of the food shipments, they would turn the food items away, but there wasn't any marking on the record, so KBR just sent the food to another base for use.

The problem with expired food was actually worsened with the switch of PWC because it took longer for the food items to get to the base as they were shipped from the U.S. to a warehouse in Kuwait.

KBR also paid for spoiled food.

When Tamimi dropped off food, there was often no place to put it into the freezers or refrigeration. Food would stay in the refrigeration and freezing trucks until they ran out of fuel. KBR wouldn't refuel the trucks, so the food would spoil. This happened quite a bit.

In addition, KBR would cater events for KBR employees like management parties and barbecues. This happened about three times a week. As a result, there were shortages of certain food items such as beef, chicken, pork, salads, dressings and sodas for the troops.

#### MAYBERRY:

The food service personnel were given sanitation rules from the military, preventative medicine information programs and rules to follow by the armed forces.

But KBR managers informed us that the information was not to be followed and they knew best -- their instructions, so our employees weren't following sanitation rules as set forth.

Also, the Iraq subcontractor drivers and food convoys that arrived on the base were not fed. They were given MREs, or meals ready to eat, with pork, which they couldn't eat because of religious reasons.

As a result, the drivers would raid the trucks for food.

Government auditors would have caught and fixed many of the problems, but KBR managers told us not to speak with the auditors.

The managers themselves would leave the base or hide from the auditors when they were on the base and not answer the radios when they were called for them.

We were told to follow instructions or get off the base.

The threat of being sent to a camp under fire was their way of keeping us quiet.

The employees that talked to the auditors were moved to the other bases that were under fire -- and more fire than Anaconda.

If they refused to move, they were fired and sent home.

I, personally, was sent to Fallujah for three weeks. The manager told me I was being sent away until the auditors were gone, because I had opened my mouth to the auditors.

When I returned from Fallujah, the convoy was attacked.

I was put under danger because the KBR management didn't want me to talk to the U.S. auditors.

When KBR wanted me to go to Tikrit, I headed home on rotation. I wasn't officially fired, and I didn't formally quit.

I am happy to answer any questions the committee may have for me.

STAFF (?):

Mr. Mayberry, I thank you for your statement.

Representatives of the Senate Democratic Policy Committee have provided me with several questions they would like me to ask you now.

Can I begin to ask you those questions?

MAYBERRY:

Yes.

STAFF:

First question: Are you saying that Halliburton deliberately falsified the number of meals they prepared and then submitted false claims for reimbursement and that they did this to make up for past amounts auditors had disallowed?

MAYBERRY:

Yes.

STAFF:

So when they couldn't get reimbursed legitimately, they committed fraud by submitting these false bills?

MAYBERRY:

Yes.

STAFF:

How many meals were served at the dining hall each day?

MAYBERRY:

2,500 meals per meal times four -- there were four meals -- breakfast, lunch, dinner and a midnight meal.

STAFF:

So every day, Halliburton was charging for 20,000 meals it never served?

MAYBERRY:

Correct.

They were charging for 20,000 meals and they were only serving 10,000 meals.

STAFF:

Was it rare for expired food to be served to the troops?

MAYBERRY:

No.

It was on an everyday occurrence, sometimes every meal.

STAFF:

You've described routine overcharging and unsanitary practices for Halliburton, as well as shortages of food items, because of private Halliburton parties. Halliburton managers were not only aware of these practices, they ordered them. Is that correct?

MAYBERRY:

Correct.

STAFF:

How senior were these managers?

MAYBERRY:

The main manager was a manager of all of Iraq, assigned by KBR.

STAFF:

So these practices may have been ordered at other dining halls as well?

MAYBERRY:

Most likely, yes.

STAFF:

When government auditors arrived, these senior managers deliberately avoided them?

MAYBERRY:

Yes.

STAFF:

And these senior managers ordered you and other employees not to discuss your concerns with the auditors?

MAYBERRY:

Yes.

We were informed if we talked; we'd be rotated out to other camps that were under fire.

STAFF:

Is it fair to say that the managers used the threat of transfer to a more dangerous base to intimidate employees and keep them quiet?

MAYBERRY:

Yes.

STAFF:

When employees did talk to auditors, what happened?

MAYBERRY:

All the employees that did talk to the auditors were switched out to other camps or fired because they refused to go to the other camps.

STAFF:

Is there anything else that you would like us to know?

MAYBERRY:

Not at this time.

STAFF:

Thank you for your testimony, Mr. Mayberry.

We'll be concluding the recording at this time.

We have concluded approximately 11:25 Pacific Time.

Thank you.

(END VIDEOTAPE)

DORGAN:

As I indicated, Mr. Mayberry is now in Baghdad and did want to testify, and so the next best opportunity for us was to have him do it by videotape.

And we appreciate very much his cooperation.

DORGAN:

Next we will hear from Gary Butters.

Gary is chairman of Lloyd-Owen International. He previously spent 15 years as a detective in London's Metropolitan Police Service until leaving in 1993 to become managing director of a London-based security company.

Mr. Butters, thank you for joining us.

And I might point out that Alan Waller is with you. He's the CEO of Lloyd-Owen International. He was previously in the United States Marine Corps and the British military, retiring in 1987 to pursue a career in the security industry. He has been working in Iraq since June, 2003.

You may proceed as you wish.

BUTTERS:

My name is Gary Butters and I'm currently the chairman of Lloyd-Owen International, a Minnesota-registered security company.

Alan Waller is sitting to my left and has been a business associate for approximately 10 years and was instrumental in establishing Lloyd-Owen's presence in Iraq. He's the founder and CEO of the company.

Lloyd-Owen International has, for the past 12 months as of June 30th, 2004, been responsible for the delivery of fuel from Kuwait to Iraq. Those responsibilities include fuel loading in Kuwait, fuel monitoring, transport logistics, transport management, security, delivery management and accountability for the fuel.

During the past year, Lloyd-Owen has, as of the 22nd of June, 2005, successfully delivered 158,145,195 gallons of gasoline.

These fuels have been delivered at an approximate 98 percent success rate loaded versus delivery. And I'm going to add that due to the accountancy procedures we have implemented we can identify where each gallon of fuel and when it was delivered and to where.

During the course of the year, Lloyd-Owen has lost, due to operational accidents, a mere 53,391 gallons of fuel. These accidents were a result of normal road traffic accidents, a rate we consider commensurate with that encountered by trucking haulers in safer Western environments.

The question of how Lloyd-Owen came to find itself involved in the crucial fuel delivery program, which is no exaggeration to say has assisted in stabilizing the security in the south of the country -- essentially, the Iraqi ministry of oil and their representatives, the State Oil Marketing Organization, better known as SOMO, buy the fuel directly from the National Oil Company of Kuwait, KPC.

Geotech Environmental Services, a Kuwaiti company, has a contract with SOMO to transport the fuel from Kuwait to Iraq.

We have a contract with Geotech to manage and monitor the fuel transport.

BUTTERS:

We also have a contract with SOMO to provide for security for those fuel convoys.

It is important to mention that during the course of the operation in Iraq during the last year, we have ourselves provided equipment such as hoses, pumps, generators, couplings and other sundry equipment to ensure the validity of this project.

It was agreed, as part of the contract, that the price of transporting the fuel would be 18 U.S. cents per gallon, which we understand to be significantly cheaper than the rates charged by other transport companies.

The break down of Geotech's price of 18 cents per gallon reveals Geotech is paying the transport companies anywhere between 9 and 11 cents per gallon, leaving about 6.5 cents to Geotech.

From 6.5 cents per gallon, Geotech has to pay the following costs: Geotech Kuwait offices, Lloyd-Owen Kuwait office, Lloyd-Owen management and monitoring costs, and of course, the Geotech support staff.

Thank you, sir.

WALLER:

Thank you, Mr. Butters.

Gentlemen, as mentioned, Lloyd-Owen was tasked to provide the entire management for this fuel project.

Since June of 2004, the amount of fuel has increased to a massive 3 million liters of fuel per day. This exercise requires the supply of approximately 650 fuel tankers supplied by four or five trucking companies at any one time.

This achievement requires the approximate loading of 100 tankers per day, which will result in a daily fuel convoy into Iraq of anywhere between 100 and 130 tankers.

By being able to monitor and manage the fuel supply in the south of Iraq, our role has become instrumental in normalizing relations between Iraq authorities, the population and the coalition forces.

For example, if there should be an occasion where there is a shortage of fuel, the primary cause to blame is the U.S. via coalition forces based in the region. Equally, long fuel lines will cause civil unrest in the area.

One example, in December last year, Gary and I delivered fuel to Najaf during an anti-coalition demonstration. We were the only two Westerners in our fuel convoy and demonstrators all on the brink of violence surrounded by the entire convoy.

With our assistance of our Iraqi teams, we informed everyone that we were bringing Iraqi fuel to Najaf for Iraqis. This was not fuel for the coalition, but directly for the Iraqi people.

WALLER:

The demonstration subsided, and the participants assisted in the delivery and resumed after we had left -- thankfully, safely.

It is interesting to note that previous fuel contract operated by KBR and then-nominated transporter Altanmia was apparently run from an illegal site for which Altanmia have been successfully sued within Kuwait, allegedly being asked to pay restitution of over some 2 million Kuwait dinar, approximately \$6 million.

Over the past year, Lloyd-Owen has encountered a number of difficulties when attempting to traverse the Kuwait-Iraq border, which is better known as the military crossing, operated by KBR.

The reason why Lloyd-Owen used this facility is twofold. The contract is between the respective governments and not individuals. It's from Kuwait to Iraq directly. And it is not possible on a logistical or practical basis to transport 120 fuel tankers per day through the Kuwait-Iraq civilian border crossing.

As an example of the difficulties encountered, in 2004 KBR shut the border access to Lloyd-Owen, citing that because Lloyd-Owen, nor Geotech, did not have a valid U.S. military contract; they denied us the privilege of using the military crossing.

Following hurried and emergency negotiations between various parties, a sense of reality was placed back into the situation in that the fuel is Iraqi government fuel on a government-to-government contract and the border should be immediately reopened to Lloyd-Owen and Geotech. LOI are simply the facilitators of this project.

Recently, officials of the U.S. embassy have inexplicably stated that the allowing of Lloyd-Owen to process the departure of Iraqi-purchased fuel into Iraq via a strategic and secure route -- the military crossing -- is not valid and is quite possibly illegal due to a lack of a U.S. contract and is only being allowed as a favor, and in practical terms, the fuel should pass through the military crossing.

It is not possible. It will, in fact, be an absolute impossibility to get this many fuel trucks through the civilian Kuwait-Iraq border on a daily basis and continuing basis in order to maintain the fuel status quo inside Iraq.

It would take approximately 30 minutes per truck to traverse the system, or 60 hours per day -- it would not work -- with predictable and dire consequences for the situation and stability of southern Iraq.

WALLER:

As Lloyd-Owen delivers fuel to nearly every refinery or depot in southern Iraq every day, we find ourselves frequently encountering examples of poor equipment, no equipment or complaints from Iraqi staff concerning Western assistance.

We have recently been approached to supply equipment to the Khorziber oil terminal, where we have discovered missing, broken, old or nonoperational equipment apparently supplied by KBR.

It is the claim of the Iraqi staff that this equipment, which was installed, was provided by KBR.

Upon investigation of the operational effectiveness of said equipment, we found at least three pumping and generating systems that were not operational due to old or incorrect requirements being supplied.

Further, the Iraqi management also informed us that equipment had been delivered for installation but had then been transported out, following a signature being obtained.

It has to be stated that this is, at this time, unsubstantiated and we have been tasked to investigate.

A further and, possibly, more disturbing incident involving Lloyd-Owen personnel occurred on the 9th of June this year.

Lloyd-Owen undertook a high-risk task to deliver dining construction goods for KBR to a base called Takdun-TQ just outside of Fallujah.

The primary reason for us to do this is for Lloyd-Owen to somehow obtain accreditation, or what is better known as a DOD card or a CAC card.

On arriving in the Habanir region, our convoy was ambushed approximately two kilometers from the U.S. base. We suffered serious casualties in nearly a four-hour fight.

We lost three individuals to direct fire, seven individuals were injured and, on arrival at the U.S. base, one U.S. military Marine was sadly injured in an attempt to assist.

Once inside the U.S. base, our team had to regroup and prepare for the return journey.

It must be strenuously emphasized that the assistance granted by the U.S. Marines and Navy personnel at the time was of the highest caliber and is a credit to their uniform and their nation.

However, it has now come to our attention that, while investigating the incident, the KBR senior management had taken an extraordinary decision to instruct their on-site staff to offer no assistance to Lloyd-Owen personnel in order to unload KBR goods or prepare for the return journey.

I have evidence via the e-mail that we have here today.

Certain courageous KBR staff denied their management directions and immediately rendered assistance to Lloyd-Owen in, obviously, a very difficult situation.

In closing, we would like to take this opportunity to thank all our staff in Iraq and, most importantly, the Iraqi people that allow us to bring us into their operation.

We will continue to support SOMO and the people of Iraq, and look forward to a long relationship in the field delivery operation.

And thank you, gentlemen, for allowing us to speak.

DORGAN:

Mr. Butters, Mr. Waller, thank you very much for being here. And we will have some questions.

I was thinking of the testimony by Rory Mayberry in which he was describing having run a food facility in Iraq and describing feeding U.S. troops outdated food or food with its freshness no longer guaranteed because it's being served outside of the date on the packaging.

And I'm thinking, you know, the old honor among thieves -- there's obviously no honor here by a company that would serve outdated food to American troops in Iraq serving their country.

But the more I learn, the more I shake my head and wonder: Who on Earth is watching the store here? Who's minding the store?

Obviously, the answer to that is: No one at the moment.

Ms. Greenhouse, I told you that I first became acquainted with you through an article that I read. And in that article, it described a number of important and significant things that concern me and concern all of us here today.

The article described -- and I think you alluded to it briefly in your testimony -- described meetings in which Halliburton was present at the meetings and then, from those meetings, actually received contracts.

And during those meetings, you expressed, apparently, to your co-workers and superiors that this was improper.

Can you describe those circumstances to us?

GREENHOUSE:

Yes, I can.

In the planning stages for any campaign that we might have, if a contractor has been awarded a letter contract, it is possible for that contractor, then, to participate in the planning sessions.

GREENHOUSE:

So I assumed that at that time the contract had been awarded and they were a part of that planning session.

My concern at that session was, Halliburton came to -- KBR came to give an update on where they were in the planning session. They provided that update, but they were allowed to continue to stay on in the meeting.

During the meeting, there were discussions that were entering into scheduling, into budgetary facts that were beyond the scope of what Halliburton's contract would have allowed them to do. And I felt that as a procurement executive, I could not sit there and see the potential for a conflict of interest or a providing of information for which they were not privy to, should not have been privy to, to continue on.

So that's when I got up to speak with the chairman, to say that they have completed what it is that they came here to do, to provide the update. It is now time that we ask them to leave, because it's getting into other information beyond the scope of the effort that they were to do.

DORGAN:

And who was the chairman at that time?

GREENHOUSE:

I do not want to present any names, in that there is an investigation that is going on of the charges that I did.

DORGAN:

All right.

But the point is, this was a circumstance that was highly unusual.

Normally in circumstances like this, as I understand it, Halliburton had been tasked to do a front-end study of the potential project. And then in almost all cases, that enterprise that did the front-end study would not then be doing the contract. Isn't that correct?

GREENHOUSE:

That's true.

We had -- in kind there is an economic analysis that is done for any program that we might have, or something similar to a contingency plan, which would also include the pricing, the estimates and budgets and so forth.

GREENHOUSE:

There is what is called a conflict of interest.

We don't want, you know, anyone who has decided to perform that type of a tasking for us. We must include in the contract a clause that says that they have agreed to not have any follow-on, you know, with that.

And unless it's really extenuating circumstances of which some of those circumstances, you know, could be as in the prosecution of war, we want to make sure that it is indicated within the documentation as to why it was that contractor and no other could prosecute the functions that needed to be and that we could mitigate in some way the potential conflict of interest.

DORGAN:

Ms. Greenhouse, you said in your testimony that "the abuse related to contracts awarded to KBR, Halliburton, represents the most blatant and improper contract abuse I've witnessed during the course of my professional career."

GREENHOUSE:

Yes, I did.

DORGAN:

Strong statements.

GREENHOUSE:

Yes, a very strong statement.

A statement that I have made because it was true in my experience.

I felt that I was there as the procurement executive to make sure that the business part, you know, of whatever we did was done correctly and done in the highest degree of fairness to everyone concerned.

And it just seemed that my bringing up these kinds of things was more of a nuisance than it was of folks really realizing that I had a responsibility there to make sure that for all stakeholders that might be in the process, you know, that everything that was conducted was conducted with the highest degree of integrity.

DORGAN:

No doubt you have read the same stories we have read. You've heard the same testimony we have heard about waste, fraud and abuse.

Does it surprise you that in circumstances where a company is given a large sole-source, no-bid contract with billions and billions and billions of dollars that we would begin to hear and see these kinds of abuses? Are you surprised by it?

GREENHOUSE:

We have the responsibility as the persons who manage those contracts -- the government -- to make sure that the contractor lives up to the rules of engagement and what he has determined -- what we have determined are going to be in the best interests for the government.

DORGAN:

Ms. Greenhouse, do you have any notion of why no one else seems very interested?

You're obviously interested in what you perceive to be an abuse. We're very interested in what we perceive to be both the taxpayers being fleeced and the troops disserved by all of this.

Can you give me any notion of why you think everyone else is looking the other way and doesn't seem to give a damn about it?

GREENHOUSE:

Well, I can only speak for myself, and it's my responsibility.

As I said before, I took an oath of office to make sure that the procurement process that was developed at the Corps of Engineers was the fairest process that could be -- that is, considering peace and war, that we are doing the best that we possibly can to make sure that the funds that are expended are no more than is necessary to be expended, the quality of services and products that we get is at the highest quality, and that we get no delays in making sure that those products and services are delivered for the troops that need them or for anyone that is within the process.

DORGAN:

And you were told last week by, you said in your statement, the general counsel of the Army Corps of Engineers that your voluntary appearance here would not be in your best interest.

Is that correct?

GREENHOUSE:

It was the acting general counsel...

DORGAN:

Are you able to give us his name?

GREENHOUSE:

... who in all of the statements that he made led me to believe that it was not in my best interest.

DORGAN:

Would you give us his name for the record or would you prefer not to?

GREENHOUSE:

I'm not sure that I should be giving any names here.

DORGAN:

It's fine.

I assume there's only one acting. We'll figure that one out.

GREENHOUSE:

Yes.

(LAUGHTER)

I'm sorry.

DORGAN:

That's all right.

Let me also -- just a final question or two.

At some point, because you raised all of these questions, you were called into a meeting, you indicated in your testimony. And you were, I believe, from information I had seen, you had previously in a pretty distinguished career always received high marks, high performance ratings...

GREENHOUSE:

Absolutely.

DORGAN:

... doing a great job for the country and so on.

When you began raising questions to kind of interrupt the old-boy network of let's do this without having any bidding; let's do it to this company and so on -- you began raising questions. At that point, you began to get under some people's skin, it looks to me like, and you began to get some sense that you weren't held in very high esteem any longer.

You were called to a meeting. And were you told then that you were either going to be demoted or you could retire with full benefits? Is that kind of the presentation they gave to you?

GREENHOUSE:

I was told precisely that I was being removed from contracting, removed from the senior executive service, being placed as a project manager in military programs and no longer would continue as the principal assistant responsible for contracting.

And then a paragraph just below that said that "you are eligible for retirement."

DORGAN:

And one final point.

There was a report from inside the Pentagon documenting overcharges on the RIO contract from Halliburton. And a Lieutenant Colonel Castaldo, I believe, on December 19th, 2003, pushed through a waiver that freed Halliburton from having to provide documentation about those overcharges, which in effect gave Halliburton the waiver.

Was Lieutenant Colonel Castaldo -- would he in the normal line of command have been reporting to you in this circumstance?

GREENHOUSE:

Yes, he was.

He was serving as the deputy chief of the office of the principal assistant responsible for contracting.

But the interesting thing about that is that I had found that Colonel Castaldo was on many occasions wanting to know when was I going to be absent from the work.

GREENHOUSE:

And this particular incident occurred on a day that I had a doctor's appointment and was not at the work that day.

It never appeared -- the unusual thing about it was that the waiver request never appeared in my tracking system. Because normally, if anyone replaced substitutes for me and then it's in my tracking system and my administrative assistant would have given me a copy of the document, you know, to see.

But because it wasn't in the tracking system, I never knew that the waiver had gone through.

DORGAN:

So, in effect, a subordinate of yours took action, did not disclose to you the action he took, action that you certainly would not have supported?

GREENHOUSE:

Yes.

DORGAN:

At whose request do you think the subordinate took that action?

Was it of his own volition or did it come from elsewhere?

GREENHOUSE:

I certainly would not say it was at his own volition.

To be able to approve a document, to go up to the head of the contracting activity is very serious business. With a waiver request, an HCA may grant a waiver. But there are a lot of facilities within our contracting regulations that allow us to, may, do something. But it's not a must behind any of that.

And because we're in a cost-reimbursement environment, that's a very critical "may" in that the government then assumes the responsibility for cost reasonableness, for price reasonableness when there's a waiver that is given to the contractor on any cost accounting CAS-type contract, a cost accounting standards-type process.

GREENHOUSE:

It's very serious business in that, in a cost environment, government takes all the risk. And the only impact that we have up on the contractors is to provide certified, accurate cost and pricing data to back up the blank sheet of paper that they present to us as an estimate.

So I feel that for the HCA to have just wavered -- and the document that I saw did not have the necessary sufficiency for us to know that, yes, in fact, the price is reasonable.

There's a requirement for having unit cost trends, having a price analysis, having vendor quotations.

None of that was attached to the document that came forward as the waiver request. That was my concern. That I would not have allowed to go to the HCA for a signature when someone at my office -- when I am supposed to make sure that things are correct for him to sign.

DORGAN:

Ms. Greenhouse, we've never met.

GREENHOUSE:

Yes.

DORGAN:

We don't know each other. And sometimes, all of these issues ricocheting back and forth -- especially in this town -- becomes: Who do you trust?

Now, I don't think you can look at the testimony we've had at, now, five hearings that relate to these issues and not conclude that what is happening here is shameful. It is almost unbelievable to me.

We're trying to prosecute a war. We're asking young men and women to put on a uniform and travel halfway around the world to risk their lives and sometimes give their lives.

And in support of all of that, we spend a massive amount of money -- \$81 billion of an emergency supplemental just recently. There's another \$45 billion coming to us from the U.S. House right now -- a massive amount of money.

And what I see from testimony -- not just from you, but from many others who've sat at the witness table in front of us -- is waste, fraud and abuse that is just flat disgusting and ought to be stopped.

How do we stop it?

You're willing to risk your career to stop it. And for that I think you need our congratulations and our thanks and our gratitude.

But we just keep pushing and pushing here to see -- normally speaking, what would happen is the authorizing committee would call to a witness table and demand the presence of the people who would answer to your charges today.

DORGAN:

And incidentally, we invited the head of the Corps of Engineers both now and also during the circumstances that you have described to be with us to testify today.

But until the authorizing committees decide to do the right thing and decide on behalf of American taxpayers and on behalf of American troops in the field to do the right thing, we will continue these hearings and hopefully there will be people like you with the courage to come forward --you and Marie deYoung, who testified previously, and others.

It will not, I'm sure, when the hearing is over be a pleasant thing to have testified here because it would have been easier for you to do whatever you do, just kind of get in the background and slide easily away and take your pension and not have the controversy about your performance and so on ricocheting around.

But let me just say you've done the right thing.

This country owes you a debt of gratitude. And my hope is that your appearance here and the appearance by previous witnesses will finally get this country to the right place in understanding there's a right way to support American troops.

There's a right way to stand up for American taxpayers and to represent strength for our country and it doesn't include cheating, doesn't include fraud, and doesn't include abuse. It doesn't include feeding outdated food to American soldiers.

What I have heard in these hearings is unbelievable and in some cases shameful.

So thank you for being here.

Mr. Butters and Mr. Waller, I thank you as well. We will have other questions.

I am the ranking Democrat on the Interior Appropriations Subcommittee and that is taken up on the floor of the Senate at 3 o'clock, so I must go to the floor of the Senate.

I'm going to next call on Congressman Waxman for questions.

And I'm going to ask Senator Lautenberg if he will chair the remainder of the hearing and he's agreed to do that. So I'm going to go to the floor of the Senate for this time for the reasons I just mentioned.

Let me call on Congressman Waxman.

And thank you for the work you've done on this, Congressman Waxman.

WAXMAN:

Thank you very much, Senator Dorgan.

Ms. Greenhouse, I too want to commend you for standing up, blowing the whistle and trying to protect the taxpayers of this country and to say openly what you think was going on was not right when you thought it was not right.

You're the top contracting official at the Army Corps of Engineers and when you raised concerns about Halliburton's contracts, from your testimony; you were ignored, over ruled, bypassed and eventually threatened with demotion.

Did this start with the special no-bid contract that Halliburton received for restoring oil in Iraq?

Is this when you first found that there were problems with the military people, the Army Corps of Engineers?

GREENHOUSE:

No.

I had been with the corps now for eight years, and because I was considered a stickler, you know, for the rules and so forth it had always been a concern with some of the practices that some people wanted to infuse into the process.

GREENHOUSE:

And I would just make sure that from the business side of it of which contracting officials are responsible for, that I made sure that everybody understood what it is that we were supposed to do...

WAXMAN:

Did you think it was a good idea to give Halliburton subsidiary a no-bid contract? Did you think there should have been competition?

GREENHOUSE:

I would like to say that, first of all, I have no adversity for sole-source contracts.

But I am responsible for making sure that those sole-source contracts are validated. When I find that I cannot validate, then it's a problem.

WAXMAN:

What does it mean to validate?

GREENHOUSE:

To validate indicates that, surely, we can say that it's a sole-source under the exceptions that are provided for us in the FAR, be it one and only one source, or a compelling emergency, or many others.

But in accordance to the prescriptions that are given in the FAR, you simply cannot use that prescriptive language. You must overlay the environment that says that, in fact, this satisfies the prescription.

So I'm looking for that.

GREENHOUSE:

You know, as the competition advocate for the corps, responsible for ensuring that we remove all inhibitors to competition and even inhibitors as a sole-source contract, I must make sure that I look through all of the lenses and come up with the right recommendations regarding what I see.

If I cannot be convinced from the words, then I'm sending it back for a re-look at those words, because it has not been validated, as far as I'm concerned.

WAXMAN:

Evidently, the military officials at the Army Corps of Engineers who were involved in contracting disagreed with you.

And you indicated today in your testimony that it wasn't just the military officials at the Army Corps of Engineers, but that there was also the Office of the Secretary of Defense who was heavily involved. Is that correct?

GREENHOUSE:

Well, I make this statement in that vein, in that when I received with all of the advice that I had given -- advice regarding the business sense, you know -- and if I received the document and it still has in that document those things that I have said are not in the best interest.

WAXMAN:

But my question specifically is, you raised your concerns. They went ahead anyway.

GREENHOUSE:

Correct.

WAXMAN:

But you said -- at least I thought you said -- that it wasn't just the Army Corps of Engineers, but the Office of the Secretary of Defense who was involved. Was that true?

GREENHOUSE:

That is true. That is true.

There was an individual who was a part of the team that each step of this process was carried through. So there was involvement of the secretary of defense. And they sent down the document that had been approved by them. So, of course, by the time it got to the Corps of Engineers, that was the document.

WAXMAN:

Whenever I've raised questions about Halliburton's contracts in Iraq, I was repeatedly told, the contract was handled by career procurement officials.

In fact, I want to read to you, on "60 Minutes," in the month after the contract was publicly disclosed, the chief counsel of the Army Corps of Engineers claimed that political appointees had no influence over the process of developing and awarding the sole-source oil infrastructure contract.

"The procurement of this particular contract was done by career civil servants" -- this is what he said on that program -- "and I know that it's a perception that those at the very highest level of the administration, Democrat and Republican, get involved in procurement issues. It can happen. But for the very most part, the procurement system is designed to keep those judgments with the career public servants."

WAXMAN:

And then, similarly, during an October 2003 press conference, Assistant Secretary of State Robert Boucher broadly asserted, quote, "The decisions are made by career procurement officials. There is a separation, a wall, between them and political- level questions when they're doing the contracts," end quote.

Now, it sounds to me that, from your experience, that this wasn't accurate. Is that true?

GREENHOUSE:

That is not accurate, in the sense we would hope that, that is the way the conduct of the procurement process is intended. But each individual that may have been on a project delivery team has a boss, and so on, of getting approval at the various levels.

It is important that there is the independence of the contracting officials to make sure...

WAXMAN:

But it doesn't appear that the independence was respected here.

I guess my question to you...

GREENHOUSE:

Yes?

WAXMAN:

... from your information, was the decision made by the Office of Secretary of Defense to award the RIO contract to Halliburton?

GREENHOUSE:

It appears that way, that they were certainly in the approval of the contract and how that contract -- the rules of engagement of that contract as it came down to my level.

You know, just taking the five years as a contracting individual, regardless of the fact that we are in war or whether it's in peace, there is a certain amount of time that is needed for a bridge of a contract that has to be done in order to begin the prosecution of the war, but at the same time is intended for limited competition.

I wanted to make sure that, that bridge was a bridge.

WAXMAN:

Now, from your long experience as a civilian contract officer for the Army Corps of Engineers, was this level of involvement from the secretary's office usual?

GREENHOUSE:

I would hope that the secretary's office, the Department of the Army, the Corps of Engineers, looking at those people, the one person on the ground who is the contracting officer would respect the authority and the independence of that person.

And so I can't speak for all of the contracts that have happened, but to me this specific one was unusual. And I felt that what I had provided as information to say that it should not be five years, it's only needed to be one year, all we have to do with a stroke of the pen, if we found that in the prosecution of the war we could not do a limited competition, that any prudent individual would have been able to understand that we have to continue the contract beyond a one-year period.

WAXMAN:

Mr. Waller and Mr. Butters -- and I want to thank you both for testifying today. I know you had to fly from Iraq and London to be here, and so we appreciate your making this effort on behalf of the Iraqi people.

Your company transported fuel into Iraq. You were doing the same thing that Halliburton was paid \$1.4 billion to do, yet your costs have been just a fraction of Halliburton's costs.

I'd like to begin by looking at your fuel transportation costs. These are the costs to deliver the fuel, not to buy the fuel itself.

You testified, with your company's help, another company called Geotech was transporting Kuwaiti fuel to Iraq at a cost of 18 cents per gallon. Is that correct?

BUTTERS:

That's correct.

WAXMAN:

Now, let's compare this to Halliburton's costs.

Halliburton charged \$1.30 per gallon to deliver gasoline from Kuwait. In other words, they charged over seven times more than you do.

In your view, is there any way to justify such a large price difference?

BUTTERS:

Frankly, there isn't.

Our involvement has grown over the period of the year, so our costs have been commensurate with that growth. An existing transporter would have a larger infrastructure and would have greater overheads.

And so, in all fairness, you could probably uplift our costs by 100 percent to, say, 36 around about there cents.

I can't see how it can go further than that.

WAXMAN:

One explanation we've heard from Halliburton was that the dangerous conditions justified their inflated transportation costs.

WAXMAN:

Do you face the same kind of security risks that Halliburton faced?

WALLER:

It's fair to say that conditions in Iraq have, over time, since the invasion of the country and the liberation of the Iraqi people, has worsened.

At the time that we understand KBR to be delivering fuel, or Altanmia, or the associated companies, the security situation was possible. You could certainly go into Iraq without much fear of the dangers that are being faced every day now.

Our security costs are very minimal, but at that point in time, KBR was also being supplied security by the U.S. military.

Our record to date is we have a nearly 100 percent delivery rate for tankers in Iraq in one year of operation. We have lost one tanker to theft and everything else has been delivered and accounted for.

We have not lost a single truck to a security incident in Iraq.

WAXMAN:

Halliburton said that they had -- its subcontractor Altanmia -- and they had to pull together a trucking fleet quickly which added to the expense.

Did your subcontractor Geotech have to pull together a trucking fleet quickly?

BUTTERS:

In exactly the same way, yes, sir.

WALLER:

Thirty days.

BUTTERS:

Thirty days.

WAXMAN:

So you were doing the same thing that Halliburton was doing but you were doing it, the transportation of the fuel, at a fraction of the cost and you can see no other reason why they would have had such an inflated...

BUTTERS:

None whatsoever. They were sourcing their trucks in the same Kuwaiti market that we were and all the difficulties we faced were the same that they faced. They just had a larger infrastructure and ability to deal with it.

WAXMAN:

Let's turn to the fuel distribution infrastructure in Iraq.

You work with this every day. And last year, Iraq's state-owned oil company, SOMO, asked your company to assess the fuel distribution infrastructure. Under Halliburton's oil contract, it was responsible for making sure Iraq had a functioning system for distributing fuel.

What kind of job did Halliburton do? What was your assessment of the work Halliburton had done by May, 2004?

WALLER:

I would have to say that with the fuel distribution program, that there was none.

We were asked to initially assess our distribution points prior to delivery. We have not, to date, seen a functioning KBR piece of equipment to where we deliver, that is

Mufriq, Shibar, Nasariyah, Samawah, Diwaniyah, Amarah, Kut, Najaf, Karrada and Hillah.

We have had to purchase equipment in order for us to download fuel such as generators, pumps, hoses, couplings. Otherwise, it would not happen.

WAXMAN:

In the past year, how many Halliburton employees have you seen working on the fuel distribution infrastructure?

WALLER:

Initially, when we first began investigating the delivery of fuel, we held meetings with coalition forces and we met one KBR official at one of these meetings.

WALLER:

Since that point, we have only come across one KBR person in Nasariyah and that was approximately one month ago.

We visit these sites every single day and we have never come across a KBR official.

WAXMAN:

Under its RIO contract -- the one Ms. Greenhouse questioned -- Halliburton received \$2.5 billion to bring fuel into Iraqi and restore Iraq's oil infrastructure.

It's being paid an additional \$1.2 billion under the RIO-2 contract. Yet your testimony is that we've gotten little -- very little -- for this massive expenditure, this investment.

Equipment for importing and distributing fuel is decrepit or nonexistent; fuel terminals don't have operational generators.

Is that an accurate statement?

WALLER:

That is, sir, yes.

BUTTERS (?):

And can I add to that, sir, that many of the refineries that we are actually visiting are intrinsically dangerous because they are so under equipped.

WAXMAN:

I have further questions, but I know that Senator Lautenberg has questions he wants to ask. So I will reserve those questions for another round.

LAUTENBERG:

Thanks very much, Congressman Waxman.

You're not a newcomer to this problem, and we respect so much the work that you have done and are pleased to be sharing this opportunity with you to find out more about what's taken place.

And I sit here somewhat in shock when I think of what -- the lack of conscience that a company -- the activities of, in particular, Halliburton.

And, Ms. Greenhouse, you've really been a hero here. And I hope that the price that you've paid for your candor isn't one that is going to discourage you from continuing to tell the truth as you see it.

Now, I'm just curious. You've been in government service now for 20 years approximately?

GREENHOUSE:

Yes. In excess of 20 years.

LAUTENBERG:

In '97, you became the contract officer.

What were you doing in the beginning years? And I ask you that because you've established a credential that, undoubtedly, they're trying to smear.

And so, when you were hired, what was your job?

GREENHOUSE:

I was working at the headquarters Department of the Army as the deputy for armaments and munitions and the acting deputy for telecommunications.

LAUTENBERG:

So, when you were given the assignment in '97, that was a promotion?

GREENHOUSE:

It was a promotion, yes.

LAUTENBERG:

So it was thought, generally, that you were doing a pretty good job.

GREENHOUSE:

Absolutely. Absolutely.

LAUTENBERG:

And did you get any commendations for your work in that period of time?

GREENHOUSE:

Yes. Many commendations.

I had worked with the procurement executive officer for the standard Army management information system.

GREENHOUSE:

I had also served as the MAISRC; the major automated information systems review counsel. Had worked with Desert Storm and Desert Shield and got an award, you know, for that.

I had just completed before going to my last job before the Corps of Engineers as a year at the ICAF, industrial forces, you know, the war college, that is senior service college.

And my career -- I had worked prior to that as with the director of information systems for C-4 as the person who was over the analysis and evaluation of all of the project management and PEOs, as well as serving as the MAISRC executive secretary.

So my career, you know, starting with the director of contracting at Carlisle Barracks, you know, at the Army War College and had worked in Europe as the procurement adviser for the commander of Army Materiel Command Europe; starting up a cell of contracting that they had never had there as a clearinghouse, as well as worked on all of the revolutionary changes that were done with USURA contracting.

So my career has been replete, you know, of both post-award and pre-award, as well as serving at the highest levels in each of the experiences that I had done for the Army. Being a military wife, having to move around to -- being mobile and move around to a lot of different areas of the world and cultures of the world getting experiences that many would not have.

So it has been quite a privilege, you know, for me to serve and I take it -- and also had worked in industry before.

LAUTENBERG:

You've had an abundance of experience.

Why when they said that coming here -- these hearings, having conversations would not be in your interest?

LAUTENBERG:

Who gave you that message?

And what was the reason for changing your status, which was obviously done as a result of your speaking out?

GREENHOUSE:

Right.

I was spoken to by, as I mentioned before, the assistant general counsel. He came to me, and he was mentioning words as partisan and Democratic and so on. And I told him that I was not partisan and therefore, I didn't know anything about the hearing, as far as any particulars of the hearing; that I felt that if he wanted to ask certain questions, he would have to talk with my counsel or someone from his office.

LAUTENBERG:

And what's your job standing right now?

GREENHOUSE:

It's uncertain.

LAUTENBERG:

What do you do with your days there?

GREENHOUSE:

I'm doing my job.

I'm doing it as well as I've ever done it before. Maybe that's not the expectations of most people, but I feel privileged to be able to serve the nation in that capacity, as the procurement executive for the command. And no one is going to stop me from doing my job and giving the same type of decision analysis as I was giving before I came under these circumstances.

LAUTENBERG:

But there's a warning associated with your willingness to speak out. And you just said, you're going to do whatever you have to do to keep your conscience clear and to make sure that the rules are observed.

GREENHOUSE:

It's a bigger warning if I were not to do my job.

LAUTENBERG:

Here, here. Good for you.

GREENHOUSE:

And I'm going to do that, you know, as if my life depends upon it.

LAUTENBERG:

I want to thank you, and all of us feel similarly, obviously, for your bravery, willingness to step up, because it's not comfortable. That's obvious. And you're inadvertently a voice of trust and candor that is essential in this.

I became involved in the Halliburton relationships with our government on a couple of occasions in 2003. One was the fact that this no-bid contract was out there.

And if I might refresh your memories, that contract was initially about a \$50 million contract. And we had a debate on the floor of the Senate and finally it was agreed that there would be no more such kind of contracts.

LAUTENBERG:

But that contract that had a cap of about \$7 billion ultimately got to cost \$2.5 billion before it was finally -- one year later -- from a \$50 million suggestion to a \$2.5 billion expenditure a year later.

And that kind of behavior, that kind of attitude, is infuriating. It's a shock. And when you think of the devastation that this -- the Iraq war has brought us and does every day to families across this country -- almost 70 people have perished from New Jersey already, and 1,700 killed.

This is way over -- this is after the period of time when the president declared, "Mission accomplished."

So it's obviously way out of control.

And the fact is that profiteering is traitorous behavior. That was the theme during World War II, and a long time ago when I served in that war.

And it was unconscionable that anyone would take advantage of a situation like that and simply promote extra income -- and regardless of the outcome.

So I thank you and I'm very upset by the fact that the committee on which Senator Mark Dayton and I serve, Government Committee, it's a committee committed to investigating government activities -- and we cannot get a hearing.

Five requests that I've submitted go ignored or a response flippantly says, "Listen, this is duplicative."

Well, anybody who works around Washington that hasn't seen duplication of things hasn't opened their eyes.

The fact of the matter is this has a special purpose.

LAUTENBERG:

And I can't for the life of me figure out why it is that the chairman of the committee refuses to even engage in a debate as to why -- a serious debate -- as to why we shouldn't have this.

DAYTON:

Mr. Chairman, if I may just point out, that committee began in the United States Senate when Senator Harry Truman during World War II started it to look into contracting fraud and abuse during that war which was being carried out under a democratic administration, FDR.

And he said at the time, "I don't care whether these are Democratic abuses, Republican abuses, whatever. These affect American troops, American capabilities, American lives. Let the chips fall where they may."

And that is in marked contrast to the attitude we're seeing here today.

LAUTENBERG:

Yes.

Well, and the fact that you brought the article that we'd all read about the inadequacy of armor on these vehicles and families sending funds in to their loved ones serving to buy them proper body armor.

That's incredible. And trying to fix up rinky-dink armor for these Humvees because we haven't responded, but the money is being spent. The money is being frittered away with this kind of conduct, as we see it, unwillingness to obey the rules.

And I said it before -- I was struck when I saw Vice President Cheney on Tim Russert's show one Sunday and he said he had no financial connection with the company. Well, the fact of the matter is there is a salary contract that goes until 2007. There are stock options that go to 2009.

And I come out of the business world and I understand the values of these things very clearly. And there is a mission even though it's -- purportedly some of it's going to charitable work and some of it is insured. There shouldn't be any relationship.

And why we can't discuss it in a normal committee process is unbelievable.

But you're here and you're helping us.

And you, Mr. Butters, and you Mr. Waller as well, and our friend Mr. Mayberry. His testimony was shocking -- to think that they would take advantage of our troops by serving them food that was no longer edible in many instances and throwing stuff away deliberately.

Very quickly, when I was a young soldier I got KP on a train and when we got to the end of the train ride, halfway across the country, the cook said, "Now throw all these things overboard," jars of mustard and mayonnaise and ketchup. I said, "What do you mean throw them away?" I came from a poor family. We would have hovered around that thing and eaten it. But the fact of the matter is he said, "Well, you know what happens if I come back with a full load the next time I want to get something?" I said, "What's the difference?"

What's the difference here?

What the difference here is that they were unwilling.

LAUTENBERG:

They did the same thing as this rough sergeant. He said, "Throw it away. We get paid more if we throw it away."

And it shouldn't have happened. And the outrageous thing is that we sit here unable to bring it to the attention of the American public.

I ask you this, when Halliburton was asked to draw up the contingency plan for oil contract, do you believe that it had already been decided by the Defense Department to give it to Halliburton?

GREENHOUSE:

From what I was able to see as the basis for the sole source and getting the knowledge that KBR had been the one under the LOGCAP contract to have developed the contingency plan, that was my first point as the competition advocate; that you've got to give me more as a basis as to why this should be sole source and not the basis being government-imposed provisions.

LAUTENBERG:

I thank you...

(CROSSTALK)

LAUTENBERG:

Yes?

WAXMAN:

... to answer that. Yes or no, your question was?

LAUTENBERG:

Whether or not when the contingency plan for the oil contract was given, did you feel that Pentagon officials had already decided to give it to Halliburton?

GREENHOUSE:

I don't think I would have been arguing about this had I not seen that as the competition advocate.

To me, it was yes. And I wanted to make sure that whatever we had chosen as one and only one source, that the prescriptions that are under that one and only one source actually overlaid the environment of what was going on as to why we had KBR as that one and only one source.

LAUTENBERG:

Could there have been a competitive company in the equation as we looked at that contract? Were there any other companies in America, do you think, that could have fulfilled the needs of that contract?

GREENHOUSE:

Well, in accordance with the documentation that I received, two or three other companies were named who had the potential capacity to be able to perform the services.

LAUTENBERG:

Thank you very much.

We will continue as long as any of the members want to.

LAUTENBERG:

And I ask Senator Dayton now for his questions, please.

DAYTON:

I'd like to follow up on this, because you were brought into the Army Corps by then-General Ballard specifically to apply the requirements under law and regulations to some of these -- as said here in one article, "to have you shatter the cronyism that were involved in some previous contracts." So this is really your expertise, in making sure that proper rules and regulations were followed.

And then -- at least again, I'm going by this article. If it's inaccurate, please clarify. But I want to put it in the record.

This meeting that you attended, called into, was really, as you describe it here, quite out of the ordinary. This was in a really secure room in the Pentagon, February 26th, 2003, three weeks before the Iraqi invasion. And all these high-level people.

And basically, by the procedures, since KBR had been paid \$1.9 million to draft the contingency plan for RIO, under the protocol they should not have been allowed to bid for or take on the subsequent contract; that, that was an unfair advantage to know the exact budget and other details. And they were not only going to be allowed to bid; they were going to be given this on a sole-source basis.

This sounds like a highly irregular procedure or violation of procedures. Is that correct?

GREENHOUSE:

That is correct.

Under normal circumstances, as I stated before, if someone is to do an economic analysis or any kind of plan that involves the budgeting and so forth, there is usually a clause in that contract that excludes them from any follow-on type of operation.

DAYTON:

Not only were they going to be able to bid for it, they were going to give them the follow-on. Sole-source basis. You tried to limit it to one year. That was overruled or ignored. Two years plus a three-year option at their discretion. That's what caused you to write the note to your signature.

GREENHOUSE:

Right.

DAYTON:

And so this was a setup. And the KBR officials came into that meeting; this was already a done deal. This had already been decided, presumably.

GREENHOUSE:

Well, at that time, they already had the letter contract that authorized them to be a part of that planning session. And as I said, my objection at that point was that the conversations, discussions were going beyond the scope of the already awarded contract. And that's why they could not continue to stay, because I could not allow them to get any competitive advantage with regard to the follow-on limited competition or any other of the endeavors that may have come out of that process.

DAYTON:

But they didn't even need a competitive advantage. They were already going to be given on a sole-source basis the follow-on contract.

Did I understand correctly? They had already been given that. It's already been decided before you walked into that room.

GREENHOUSE:

They had the original contract, the sole-source contract. They had a letter. They could not have been in that room without already having a contract being awarded to them, being a letter or whatever.

DAYTON:

This was wired from the beginning. It appears (inaudible) this point in the record what the article goes on to say and this may not be something you can corroborate. There were signs, though no proof, that Vice President Cheney or someone in his office had played a part in tipping RIO to KBR.

Certainly, his office had been informed of the decision to award the RIO contingency plan to KBR. Michael Mobb is a political appointee who reported to Undersecretary of Defense for Policy Doug Feith, acknowledged to Congressman Waxman's staff that he had related the news that KBR would prepare the real plan to various White House officials in an October, 2002 meeting.

One of those officials was (inaudible) quote, "Scooter," closed quote, Libby, Cheney's chief of staff. The Cheney spokesman Kevin Kellems subsequently told the Washington Post that Libby had kept Cheney out of the loop about the decision to use KBR for the plan.

That's plausible?

GREENHOUSE:

Right.

DAYTON:

And then you were prevented by the Army Corps of Engineers when "Time" magazine inquired into your signature and the footnote you had written. You were told you could not discuss that matter with "Time" magazine?

GREENHOUSE:

And I was told that I had to stop writing on contracts, that I was causing trouble with the notations.

DAYTON:

You were told you could not disclose the truth as you perceived it, the facts of this matter to "Time" magazine. That's not a partisan political organization as far as I know.

You were told you should not appear before this body to publicly discuss, at our request, these matters.

Have you been told by the Army Corps of Engineers that you should not disclose your knowledge to any other public entity, legislative committee, news sources, any other authority?

GREENHOUSE:

On the instance of this hearing...

DAYTON:

Your knowledge of the particular details of this contract and all of the particulars to any other...

GREENHOUSE:

Right. I was told that I should not provide any procurement-sensitive information.

And I am the procurement executive there. I do understand my job and I understand that I am not to talk about any ongoing procurements.

DAYTON:

Is it fair to say that there is people in the Army Corps of Engineers who want to hide, bury, prevent you from disclosing the facts of this particular which involved these highly irregular matters involving Halliburton, KBR and the like?

DAYTON:

It seems to me -- that's my conclusion anyway.

And let me go on, because my time is limited, just because this ties into a broader set of concerns here that have been expressed by a former senior adviser to the U.S.-led Coalition Provisional Authority who ran Iraq toward the election of an interim government.

He says that the U.S. government's refusal to prosecute U.S. firms accused of corruption in Iraq is turning the country into a, quote, "free-fraud zone," closed quote.

And it goes on, as other articles do, to document that the lack of electricity, the lack of the fuel supplies, the enormous lines that Iraqis are forced to wait, the fact that electricity now, the third summer -- and I've been there in the summer -- 115 degree temperatures, no air conditioning, no refrigeration, no sewage and sanitation.

Because of the failure to deliver these basics and rebuild this infrastructure that some of these contracts are intended for is one of the reasons that Iraqi citizenry have turned against U.S. presence there, turned against our troops.

These have direct connections to the lives and the safety of our armed forces over there because of the failure of these firms to carry out their responsibilities.

And in light of that, I guess I want to hear one more time from you gentlemen who are trying to transport fuel to southern Iraq, which, again, is in short supply there even though you have these -- and I've been to Basra, I've been to the fields that are 10 minutes away from the town, and at the time, in July of 2003, they were having waits of nine hours for gasoline.

Now, this was shortly after the invasion. But the fact that they have not been rebuilt; that they're not functional is a major contributor, as I say, to the unrest in that region and elsewhere.

And you're saying that you're being thwarted in bringing fuel supplies across the border? By whom?

WALLER (?):

I think, Senator Dayton, your question is very pertinent to the situation.

We, as Lloyd-Owen, fall in a vacuum between who do we actually work for. Our contract is with the government of Iraq to bring government...

DAYTON:

I don't care about the technicalities, because they're in your testimony, sir.

Who was telling you that these technicalities are such that you're not allowed to bring in fuel as most efficiently as possible?

WALLER (?):

The U.S. government is saying on the ground -- it's the U.S. military that is saying you do not have a U.S. contract; therefore you cannot expeditiously get fuel through the border.

DAYTON:

So they're saying that you can't bring fuel as expeditiously as possible because of some technicality that prevents you from carrying out the purpose of the contract, prevents you from distributing fuel as expeditiously as possible to people who depend upon that then?

WALLER (?):

That's correct. That's correct.

DAYTON:

Is that as crazy as it sounds?

WALLER (?):

I'm shocked by what was recently said in that maybe what we were doing, because we did not have a U.S. government contract, was illegal.

DAYTON:

And you're also being then -- have witnessed, and you can't verify, but you've been told that the oil fields -- this is outside of Basra, the fields there that have been supplied equipment to rebuild them by KBR, that, that equipment is defective?

WALLER (?):

Well, I can tell you firsthand experience that every installation that we deliver to does not have any equipment of a modern caliber that would even qualify as being recently placed there by KBR for the distribution of fuel throughout Iraq.

DAYTON:

And that, again, directly impacts upon the ability, one, of the country to reconstitute itself economically, to generate revenues for its own economic recovery, but also on the supplies that are not available then, and the lines and the frustration of the Iraqi population.

WALLER (?):

That's exactly correct.

DAYTON:

Well, if you suffer reprisals at the border or elsewhere, which I suspect you may well as a result of your publicly coming forward -- and I thank you for doing so -- I hope you will communicate them to this senator and others directly.

And I will, as a member of the Armed Services Committee, certainly intervene and ask the senior members of the committee to do so as well, because that's just outrageous.

WALLER (?):

Thank you.

DAYTON:

Thank you.

Thank you, Mr. Chairman.

Thank you all for your appearance here today.

This is the most important work that you have done -- and many -- sounds like many commendable days of work for your country.

But this, in my mind, is one of the most important. And I admire your courage.

And, again, whatever reprisals they attempt to impose upon you, I hope you will bring to my attention and others immediately -- and yours as well.

Thank you.

GREENHOUSE:

And, Senator Dayton, I would be remiss -- I could not corroborate many of the statements that you are making there. And if I could, I would.

But in the spirit of all honesty, I would like to leave with you as a challenge that one thing that we must secure, as far as the integrity of the procurement process and its preservation, is that the competition advocate, under every campaign -- operational campaign -- there is a business side.

So the competition advocate must be able to have that independence to be able to advise. The contracting officer must have that independence to be able to not only award sufficiently, but also be able to manage the contract in order that the contractors themselves are responsible, as well as we are securing for the public trust that everything is at the highest quality that it could possibly be.

DAYTON:

Well, and I never cease to be amazed at those who preach privatization and the virtues of the private sector -- and there are those virtues -- who say government should adopt those standards and practices -- first of all, ignore the extent to which government does so, but secondly don't want the government to apply those standards and practices to the contracts that apply to them.

They want to be able to come in and take advantage of what they think is the old form of government where it's the trough to be ripped off -- this huge amount of taxpayers' money -- and they should not be held accountable.

And then, when somebody tries to hold them accountable, they run for their political cover to eliminate it.

So thank you.

GREENHOUSE:

Absolutely.

Thank you.

LAUTENBERG:

Congressman Waxman?

WAXMAN:

Thank you, Senator Lautenberg.

I just wanted to pursue some other points with Mr. Butters and Mr. Waller.

Halliburton manages the only military border crossing between Iraq and Kuwait, and this is something you've had to deal with on a daily basis.

WAXMAN:

You are a competitor of Halliburton in the sense that you both have imported fuel into Iraq.

Have you been treated fairly by Halliburton?

WALLER (?):

I think it would be fair to say that the answer to that is no.

KBR is the authority at the military crossing on the border.

As I've illustrated, it is not possible to get 120 to 160 tankers of fuel across the Iraqi border using the civilian site. Logistically, practically, it's just impossible.

The only way to do this is we've made arrangements with the military to pass through the border at 5 a.m. every morning where we pass through the entire convoy of vehicles -- not just 30 or 40, but a full 120 to 160 at any one time.

That is the only way, at this point and time, to get fuel on a basis where it would keep the stability of the fuel levels in Iraq stable.

WAXMAN:

So you have to go through the military to get across the border. The rest of the time - - early in the morning, but the rest of the time Halliburton won't let you through?

WALLER (?):

No, sir.

You have to get on to a roster where you have to apply to go across the border at any one time. Not that they stop people, but they certainly constrict your movement.

WAXMAN:

Do you have any explanation from Halliburton or explanation on your own why Halliburton would make it so difficult for you to cross the border to get oil into Iraq?

WALLER (?):

Yes.

Simple explanation is we are -- we do not have a U.S. contract, therefore we do not qualify for any assistance from the military or from KBR.

Now, that is being given by the U.S. military and we are very grateful for that. But certainly in the last seven days we've been informed directly that this is a favor. And please be advised, this is not a favor to me, this is a vital source to the people of Iraq.

WAXMAN:

Well, you're working for the state-owned oil company in Iraq and your job is to bring in oil so that the people in Iraq will be able to get about their business, to drive their cars, et cetera.

WALLER (?):

Yes, sir.

BUTTERS (?):

That's correct.

WAXMAN:

If that didn't happen, it seems to me it would be pretty chaotic in Iraq itself.

WALLER (?):

Well, it would cause massive instability.

And we've experienced -- last year by being called directly by the coalition forces both from the Netherlands, the Italians, the English and Americans for immediate assistance with the delivery of fuel in order to quell civil unrest and we have responded to those requirements within 24 hours to keep civil unrest at a minimum.

WAXMAN:

I'd like to ask a few questions about a recent insurgent attack on one of your convoys. This wasn't a fuel convoy. You were carrying building supplies for a Halliburton dining hall near Fallujah. In other words, you were acting as a subcontractor for Halliburton.

BUTTERS (?):

That is correct.

Yes.

WAXMAN:

And during the June 9th attack, you had employees killed and wounded.

WAXMAN:

Had any of your people been killed in your prior 11 months in Iraq?

WALLER (?):

No, sir. Not by security incidents. Only by vehicle accidents.

WAXMAN:

Two other contractor convoys had been attacked in the same area in the days before June 9th.

Did Halliburton or the military inform you of these attacks before you left?

WALLER (?):

No. None.

WAXMAN:

If they had told you about it, would you have done anything differently?

WALLER (?):

I think if the available information was that the region around Fallujah and Habbaniya was so bad, we would not have taken that convoy at that time.

WAXMAN:

After the attack, the survivors made it to a military base called TQ. Halliburton was operating there.

Let's be clear.

Did Halliburton management order its employees not to provide assistance to the survivors of the attack? Explain the situation to us.

WALLER (?):

I think my information as the owner of the company is that my troops on the ground reported to me that they had been told by senior management at KBR that they were explicitly told not to help us. And I read from a June the 24th e-mail from a KBR employee. It says here: "Many people volunteered to help, but were told no by our management."

WAXMAN:

Well, your convoy was carrying supplies for Halliburton. The convoy was attacked after Halliburton failed to warn you of recent attacks on the same route. Your survivors arrived at the base. But Halliburton management ordered Halliburton employees not to provide them basic humanitarian aid. Is that what you're telling us?

WALLER (?):

That's correct, sir.

WAXMAN:

And do you have any explanation for such conduct?

WALLER (?):

I find that inexplicable. I have no explanation from a purely humanitarian basis.

But I have to say that the U.S. Marines and Navy staff there were absolutely fantastic.

BUTTERS (?):

That's one thing.

I'd just take the opportunity...

(CROSSTALK)

LAUTENBERG:

... Halliburton have a totally preferred position by virtue of contract relationships, or was it just understood that when it came to KBR-Halliburton, that they were the top dog there and they were the ones that you had to pay attention to and ask for help from, even though you carried the fuel as a subcontractor? Am I correct?

WALLER (?):

This was a completely different contract, sir.

WAXMAN:

This wasn't fuel. This was some building materials.

WALLER (?):

I think in the answer to...

LAUTENBERG:

I was talking about the fuel as well, and that the presence, Henry, was omnipotent.

LAUTENBERG:

It looked like they called the shots in every case.

WALLER:

That is correct.

We would have no one else other than the military to turn to for assistance to patch up our vehicles, to get cranes, to help, to get food, to bed our people while we repaired and got the injured taken care of.

WAXMAN:

Well, as we terminate this hearing, I'd really like to find out more about this last incident, because I can't understand it.

But, otherwise, what we've heard today is, Rory Mayberry said that if he and any of his people talked to the auditors, they were threatened by Halliburton that they'd be sent to a base under fire.

Ms. Greenhouse spoke up and they wanted to force her into retirement or demote her for doing that.

And it looks like everybody plays pretty rough around this issue. You're stopped at the border from Halliburton to bring in fuel which Halliburton itself used to bring in -- and it's essential to the Iraqi people.

It's all a mystery to me what's going on. But it appears that we're overspending a lot of money -- and I want to single out for some praise, because I think the senators have indicated nobody's paying any attention, but I want to single out the auditors for praise, because the auditors have gotten to the bottom of a lot of these issues.

And they've been under some criticism by the political people in this administration, but they've come in with reports about claims that Halliburton has submitted that just can't be justified.

And we thought, before this hearing today, it was \$400 million was a result of the report that I put out today. It's now up to \$1.4 billion. And that's what we know to date.

And that's \$1.4 billion that cannot be justified, but which the taxpayers of the United States have had to pay -- money that could have been used to help our troops, protect them with the appropriate armor, make sure that they were given all the equipment they needed.

I'm pleased to participate in this hearing because the Congress of the United States has done an insufficient job in bringing out these matters.

I just want to express my appreciation to the three of you for being here.

WAXMAN:

I think this ought to be an ongoing process of investigation.

I wish the Republicans who are in charge of the Congress would be doing their job, because they're the leaders of an independent branch of government. And the founders of our government, the Constitution expected that there be checks and balances through oversight. But that's being ignored by the people in charge.

Thank you very much.

LAUTENBERG:

Your question, Mr. Waxman, was about whether political people had involvement. But it was the military that excused the claim for \$61 million worth of overcharges.

Am I correct, Ms. Greenhouse?

(CROSSTALK)

LAUTENBERG:

... auditors for the military, for the Pentagon.

GREENHOUSE:

As far as the waiver was concerned, but the waivers -- the waiver process is concerned, yes.

LAUTENBERG:

Thank you all very, very much.

You were helpful to your country today, and feel good about what you've done.

Thank you very much.

CQ Transcriptions, June 27, 2005

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## List of Speakers

U.S. SENATOR BYRON DORGAN (D-ND), CHAIRMAN

U.S. REPRESENTATIVE HENRY WAXMAN (D-CA)

U.S. SENATOR FRANK LAUTENBERG (D-NJ)

U.S. SENATOR MARK DAYTON (D-MN)

U.S. SENATOR HARRY REID (D-NV), SENATE MINORITY LEADER

WITNESS:

BUNNATINE "BUNNY" GREENHOUSE, CIVILIAN CONTRACTING OFFICIAL,  
U.S. ARMY CORPS OF ENGINEERS

ALAN WALLER, FOUNDER AND CEO, LLOYD-OWEN INTERNATIONAL

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