

September 22, 2005

The Honorable George W. Bush
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Bush:

As Members of the Congressional Progressive Caucus, we are troubled by reports that the Bush Administration has already begun to direct reconstruction and relief contracts towards companies that have a proven record of waste, fraud and other contract-related abuses in Iraq and elsewhere.

As you know, federal acquisition regulations require the federal government to only contract with “responsible prospective contractors only.”¹

Based on its track record, we believe Halliburton cannot be considered a “responsible” company, and should be suspended from any hurricane damage assessment and reconstruction contracts until the many ongoing investigations into the company are completed.

As you know, suspension is permitted if a contractor has a “history of failure” or “unsatisfactory performance” in carrying out contracts², which is clearly the case with Halliburton. Suspension is also permitted “on the basis of adequate evidence, pending the completion of investigation or legal proceedings, when it has been determined that immediate action is necessary to protect the Government’s interest.”³

As outlined below, Halliburton’s record clearly constitutes the basis for suspension:

¹ FAR § 9.103(a).

² 41 C.F.R. § 105-68.800(b)(2).

³ FAR § 9.407-1(b)(1). *See also*, 41 C.F.R. § 105-68.605. In particular, the regulations provide for suspension when “[t]here exists an indictment for, or other adequate evidence to suspect,” offenses such as bribery, fraud in obtaining or performing government contracts, bid rigging that violates federal or state statutes or “[c]ommission of any other offense indicating a lack of business integrity or business honesty...” See 41 C.F.R. § 105-68.700(a) and (b).

* Bribery:

Halliburton has admitted that its KBR subsidiary “may” have bribed the government of Nigeria for the purpose of winning a multibillion dollar construction contract.⁴ Investigators say the bribes were paid between 1995 and 2002 and totaled up to \$180 million.⁵

* Bid-rigging on foreign projects:

The Justice Department has initiated a criminal inquiry into Halliburton for bid-rigging in connection with the company’s work on foreign construction projects.⁶

* Dealing with nations that sponsor terrorism.

The U.S. Treasury Department's Office of Foreign Assets Control (OFAC) is investigating the legality of Halliburton's business dealings in Iran, a nation believed to sponsor terrorism.⁷ It is illegal for U.S. companies to directly conduct business with nations the president believes are involved in sponsoring terror.⁸ The OFAC referred the case to the Department of Justice, which is conducting a criminal investigation.⁹

* Indictment for fraud:

An employee with Halliburton’s KBR subsidiary was indicted by the Justice Department last March over a \$3.5 million fraud scheme involving the military.¹⁰ Former KBR employee Jeff Mazon and Ali Hijazi, a managing partner at LaNouvelle General Trading and Contracting Co., are charged with rigging bids in 2003 to favor LaNouvelle over

⁴ Dana Milbank, “Halliburton, the Second-Term Curse?” *Washington Post*, Nov. 9, 2004; see also “Halliburton admits bribes ‘may have been paid’ in Nigeria,” Agence France Press, Nov. 8, 2004.

⁵ The Justice Department and the Securities and Exchange Commission have been investigating the suspected crime for over a year (Associated Press, Dec. 3, 2004.) The U.S. Securities and Exchange Commission is also investigating a second bribery case involving Nigeria. Halliburton admitted that its employees paid a \$2.4 million bribe to a government official of Nigeria for the purpose of receiving favorable tax treatment. See Halliburton 2003 SEC Form 10-K.

⁶ Halliburton 2004 SEC Form 10-K. The company admitted that former KBR chairman, Jack Stanley, and other former employees “may” have criminally rigged bids on foreign contracts and that the illegal behavior “may” have been ongoing since the mid-1980s. See Halliburton SEC Form 10-Q, June 30, 2005.

⁷ Halliburton SEC Form S-4/A, July 19, 2004.

⁸ International Security and Development Cooperation Act, 22 U.S.C. § 2349aa-9, § 505; International Emergency Economic Powers Act, 50 U.S.C. § 1501; 31 C.F.R. § 560; Executive Orders 12613, 12957, 12959, and 10359.

⁹ Halliburton SEC Form S-4/A, July 19, 2004.

¹⁰ “Halliburton exec on fraud charges,” BBC News, March 17, 2005.

<http://news.bbc.co.uk/1/hi/world/americas/4359765.stm>

other subcontractors and then overcharging the U.S. military for fuel transport services at a Kuwait airport.¹¹

* Ongoing Fraud Investigations:

The Defense Contract Audit Agency (DCAA) has issued numerous audits since 2003 showing Halliburton had repeatedly violated the FAR via “significant” and “systemic” deficiencies in how it estimates and validates cost.¹² As a result, the Defense Department Inspector General and the Justice Department opened a criminal fraud investigation.¹³

* An Epidemic of Waste in Iraq:

- The inspector general for the U.S. Coalition Provisional Authority (CPA) found Halliburton charged the government \$2.85 million for hotel costs in Kuwait even though cheaper housing arrangements were available.¹⁴
- A former logistician with Halliburton in Kuwait reported that the company and its subcontractor had been charging U.S. taxpayers \$100 per 15-pound bag of laundry and \$45 per one-pack of soda.¹⁵
- The Defense Contract Audit Agency (DCAA) found Halliburton had overcharged on the fuel supply contract by \$212.3 million.¹⁶
 - The DCAA has also reported that Halliburton billed the government for 36 percent more meals than was actually served to the troops in Iraq while an internal Halliburton

¹¹ In exchange for this markup, Mr. Mazon allegedly received a \$1 million kickback from Mr. Hijazi. See “Halliburton Asked to Explain Discrepancies Between Testimony and Indictment,” Committee on Government Reform Minority Staff, May 2, 2005.

<http://www.democrats.reform.house.gov/story.asp?ID=839>

¹² Memorandum from Defense Contract Audit Agency to U.S. Army Field Support Command, Aug. 16, 2004 (DCAA “strongly encourages” the Army to withhold 15% of Halliburton’s payments because of “significant unsupported costs” and “numerous, systemic issues” with Halliburton’s cost proposals); *see also* “Status of Brown & Root Services (BRS) Estimating System Internal Controls,” Defense Contract Audit Agency, Jan. 13, 2004 (Halliburton’s systemic deficiencies “bring into question [Halliburton’s] ability to consistently produce well-supported proposals that are acceptable as a basis for negotiation of fair and reasonable prices.”); *see also* Rep. Henry Waxman’s memorandum to Democratic Members of the House Government Reform Committee, March 10, 2004.

¹³ Letter from Joseph E. Schmitz, Defense Department Inspector General, to Rep. Henry A. Waxman, Feb. 20, 2004; *see also* “Pentagon Opens Criminal Inquiry of Halliburton Pricing,” *New York Times*, Feb. 24, 2004; “Halliburton Faces Criminal Investigation: Pentagon Probing Alleged Overcharges for Iraq Fuel,” *Houston Chronicle*, Feb. 24, 2004.

¹⁴ Stuart Bowen, “Audit Report of the Inspector General,” U.S. Coalition Provisional Authority, June 25, 2004. http://www.halliburtonwatch.org/news/fdc_hilton.pdf

¹⁵ Testimony of Marie E. deYoung, former KBR employee, House Government Reform Committee Hearing, July 22, 2004.

¹⁶ “DOD Audits: Halliburton Overcharges Top \$212 Million,” House Committee on Government Reform Minority Staff, April 11, 2005. <http://www.democrats.reform.house.gov/story.asp?ID=823>

- report said it had overcharged by 19 percent.¹⁷ DoD is currently withholding \$213 million in suspicious food expenses until Halliburton provides a sufficient explanation for them.¹⁸

These are just a few of the many examples of waste, fraud and other abuses uncovered by whistleblowers and investigators, examples which follow a pattern that extends back even further. For example, the U.S. Justice Department is still investigating Halliburton for possible over billing on government services work done in the Balkans from 1996 through 2000. The charges stem from a GAO report that found in 1997 that Halliburton billed the Army for questionable expenses for work in the Balkans, including charges of \$85.98 per sheet of plywood that cost \$14.06.¹⁹ A follow-up report by the GAO in 2000 found inflated costs, including charges for cleaning offices up to four times a day.²⁰

When the administration suspended Enron Corp. from government contracts in 2002, it explained: "To qualify as a responsible contractor, a company or individual must have a satisfactory record of integrity and business ethics and must possess the necessary organization, accounting and operational controls."²¹

Halliburton's repeat violations of the FAR indicates the same kind of failure to possess the "necessary organization, accounting and operational controls" cited in the Enron case. Halliburton admitted in an internal memo leaked to the *Wall Street Journal* that its cost controls for government contracts are "antiquated" and "weak" and its procurement "disorganized" and marked by "weak internal controls."²² According to the *Journal*, the memo is "a frank admission that [Halliburton's] critics are voicing valid concerns about the possibility of overcharges under the company's massive contract to supply U.S. troops."²³

In January, the U.S. embassy in Iraq threatened to terminate Halliburton's contracts because of serious cost overcharges and what it called "poor performance."²⁴ It has been one year since the Army's chief of procurement policy, Tina Ballard, requested the Army

¹⁷ Testimony of William H. Reed, Director, Defense Contract Audit Agency, House Committee on Government Reform, June 9, 2004.

¹⁸ Halliburton SEC Form 10-Q, June 30, 2005.

¹⁹ Government Accountability Office, Contingency Operations: Opportunities to Improve the Logistics Civil Augmentation Program, Feb. 11, 1997.

²⁰ "Favoritism for Cheney's ex firm?" Associated Press/CBS News.com, April 8, 2003.

²¹ General Services Administration press release, March 15, 2002.

²² <http://w3.gsa.gov/web/x/publicaffairs.nsf/0/576435646c09ff9185256b7d004800b8?OpenDocument>

²³ "Halliburton Unit Faults Its Cost Controls in Iraq," *Wall Street Journal*, Feb. 27, 2004.

²⁴ Id.

²⁴ Erik Eckholm, "Halliburton's unit in Iraq called 'poor'," *New York Times*, April 12, 2005.

“immediately” terminate Halliburton’s troop support contract, or LOGCAP, by parceling the work out to a wider range of companies.²⁵

Major savings can accrue to the government by finding more honest and responsible contractors than Halliburton. For example, the Department of Defense terminated Halliburton from an Iraqi gasoline importation contract and assigned it to an internal office known as the Defense Energy Support Center. The result was a 50 percent reduction in gasoline prices charged to U.S. taxpayers.²⁶

We believe the administration is obligated to protect the interests of taxpayers and the victims of this disaster by immediately suspending Halliburton from eligibility for federal contracts. The company’s shoddy record is replete with numerous violations that separately and together constitute a sufficient basis for suspension, including the suspected crimes of bribery, bid rigging, trading with nations believed to sponsor terrorism, cost overcharges and fraud in performing military contracts.

The government holds a trust for the American people, and particularly in times of national emergency, as in the wake of Hurricane Katrina, it must ensure the considerable expenditures it makes on disaster relief actually benefit the victims and are not siphoned off by dishonest, fraudulent and/or irresponsible contractors.

Sincerely,

Lynn Woolsey
Caucus Co-Chair
Member of Congress

Barbara Lee
Caucus Co-Chair
Member of Congress

Dennis Kucinich
Member of Congress

Edward Markey
Member of Congress

Jerrold Nadler
Member of Congress

James McGovern
Member of Congress

Raul Grijalva
Member of Congress

Danny Davis
Member of Congress

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²⁵ Wall Street Journal, Sept. 7, 2004.

²⁶ “Halliburton’s Gasoline Overcharges,” House Government Reform Committee Minority Staff, July 21, 2004.

Maurice Hinchey
Member of Congress

Jim McDermott
Member of Congress

Major Owens
Member of Congress

Gwen Moore
Member of Congress

Maxine Waters
Member of Congress

Jose Serrano
Member of Congress

Bob Filner
Member of Congress

Sam Farr
Member of Congress

Diane Watson

Member of Congress

Pete Stark

Member of Congress

Michael Capuano
Member of Congress

c.c.

Secretary of Defense Donald Rumsfeld;

General Counsel Alberto J. Mora, Department of the Navy;

Rep. Tom Davis (VA), Chairman, House Committee on Government Reform;

Rep. Christopher Shays (CT), Vice Chairman, House Committee on Government Reform;

Mr. David Safavian, Administrator, Office Federal Procurement Policy , Office of Management and Budget;

Ms. Emily W. Murphy, Chief Acquisition Officer , U. S. General Services Administration;

Administrator Stephen Perry, U.S. General Services Administration

Mr. David E. Cooper, Director, Acquisition and Sourcing Management, U.S. Government Accountability Office

Majority Leader Tom DeLay

Speaker of the House Dennis Hastert