

Congress of the United States
House of Representatives
Washington, D.C. 20515

April 8, 2003

The Honorable David M. Walker
Comptroller General of the United States
General Accounting Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Walker:

We are writing to request that the General Accounting Office investigate allegations that Halliburton has received special treatment from the Administration over the past two years in the awarding of Defense Department contracts.

Vice President Cheney was the CEO of Halliburton from 1995 to 2000. When he left the company in August 2000 to run for the office of Vice President, the Vice President received over \$33 million in stock and stock rights from Halliburton, including more than \$13 million that required board approval.¹ The Vice President continues to receive deferred compensation payments of nearly \$180,000 annually from Halliburton.² These ties between the Vice President and Halliburton have raised concerns about whether the company has received favorable treatment from the Administration.

These concerns have increased in recent days with the disclosure that Halliburton's subsidiary Kellogg Brown & Root, commonly known as Brown & Root, has been awarded lucrative Defense Department contracts despite having a record of excessive costs and other problems.

In 1997, GAO found that Brown & Root billed the Army for questionable expenses and that the Army was "unable to ensure that [Brown & Root] adequately controlled costs and furnished the appropriate level of support" for a large contract in the Balkans. In 2000, GAO again raised similar questions about Brown & Root's work. And just last year, Brown & Root paid \$2 million in fines to resolve fraud claims involving work at a military base.

¹*Cheney Gets \$33 Million Exit Package from Dallas-Based Energy Services Firm*, Dallas Morning News (Aug. 17, 2000).

²*Fanning the Flames*, Newsweek (Apr. 7, 2003). The exact amount of compensation that the Vice President receives from Halliburton is unclear. Elsewhere, it has been reported that "the company still pays him up to \$1 million a year in deferred compensation." *Will Halliburton Clean Up? The Company That Dick Cheney Once Ran Stands to Make Millions Rebuilding Iraq*, Fortune (Apr. 14, 2003).

Despite these documented problems, the Administration has awarded the Halliburton subsidiary a string of lucrative contracts over the last two years, including contracts that were awarded without any competition and on a cost-plus basis that has allowed Brown & Root to increase its profits by increasing the costs it bills the taxpayers. In total, these contracts are worth at least \$600 million.³ The actual value of the contracts is without doubt significantly greater, as some of them do not have a dollar limit. Moreover, this total does not include contracts signed since June 2002.

We believe a thorough review by the General Accounting Office could help resolve questions about the appropriateness of the recent contracts awarded to Brown & Root.

Brown & Root's Prior Performance

Although Brown & Root has recently been awarded millions in Defense Department contracts, the company has a questionable track record of prior performance. In 1992, Brown & Root was awarded a contract to provide support services for military contingency operations.⁴ When U.S. military forces deployed to Bosnia in December 1995, the Army decided to use this contract to build base camps and provide services for its forces. GAO reviewed the contract in a 1997 report that found potentially serious problems. For example, the GAO investigation revealed that Brown & Root, which was operating under a cost-plus contract, was charging the Army \$85.98 for 4'x8' sheets of plywood that cost only \$14.06.⁵ GAO found that the Army was "unable to ensure that the contractor adequately controlled costs and furnished the appropriate level of support."⁶

³According to data from the Federal Procurement Data Center, from FY 2001 through the second quarter of FY 2002, the government awarded Brown & Root 853 contracts worth \$624,225,000. Over the same time period, the parent company Halliburton received an additional 29 government contracts totaling \$863,000.

⁴The contract was with Brown & Root Services, which has since been renamed KBR Government Operations.

⁵Brown & Root justified the \$85.98 price for each sheet of plywood on the grounds that it was expensive to fly the plywood from the United States to the Balkans. When GAO conveyed this information to the Army officer in charge, he told GAO that he was "shocked" that Brown & Root would inflate government costs by transporting plywood by air. General Accounting Office, *Contingency Operations: Opportunities to Improve the Logistics Civil Augmentation Program* (Feb. 1997) (GAO/NSIAD-97-63).

⁶*Id.*

GAO conducted a followup review of Brown & Root's contract work in the Balkans in 2000.⁷ By this time, the company had earned over \$2 billion on the contract. GAO's review continued to find questionable practices that inflated government costs and increased Brown & Root's profits. For example, GAO found that Brown & Root was cleaning some offices as many as four times a day. GAO also cited an Army official who complained that on 85% of Brown & Root projects, Brown & Root fielded excessive crew sizes. In many cases, over 40% of the workforce was idle when observed by inspectors. As a result, GAO reported that Army officials in the Balkans managing the contract "frequently have simply accepted the level of services the contractor provided without questioning whether they could be provided more efficiently or less frequently and at lower cost."⁸

More recently, Brown & Root has been under investigation by the Defense Department and the Justice Department for defrauding the government on another defense contract. DOD's Office of Inspector General and a federal grand jury investigated allegations made by a former Brown & Root employee that the company defrauded the government out of millions of dollars by inflating contract prices for repairs and maintenance at the former Fort Ord, California, military installation. According to the former employee, company project managers ordered subordinates to inflate the quantity and quality of project materials that Brown & Root provided under the contract. The employee also suggested that Brown & Root employed the same scheme at other bases.⁹ The investigation was settled in February 2002, when Brown & Root paid the government \$2 million.¹⁰

Moreover, Brown & Root's parent company, Halliburton, is the subject of an ongoing SEC investigation and shareholder lawsuit regarding alleged accounting irregularities on its construction projects. The investigation involves a change in the company's accounting for cost overruns on construction jobs that was instituted in 1998, when Vice President Cheney was running the company. The SEC began a preliminary investigation in May 2002 and it began a

⁷When the previous contract expired in 1997, the Army awarded a separate sole-source contract to Brown & Root to continue providing services in the Balkans.

⁸General Accounting Office, *Contingency Operations: Army Should Do More To Control Contract Cost in the Balkans* (Sept. 2000) (GAO/NSIAD-00-225).

⁹Complaint for Damages under False Claims Act and Demand for Grand Jury at 7, U.S. ex rel. Dammen Grant Campbell v. Brown & Root Service Corp. (E.D. Cal.) (No. CIV-97-1541WBSPAN).

¹⁰Defense Criminal Investigative Service, *Press Release* (Feb. 7, 2002).

formal investigation in December 2002.¹¹ In addition, the company recently restated its earnings for the fourth quarter of 2002 by \$14 million.¹²

Brown & Root's Contracts with the Army and Navy

Despite these concerns, Brown & Root has recently been awarded a string of extremely lucrative contracts by the Defense Department. In May 2001, Brown & Root was awarded a 5-year, \$300-million contract to provide logistical support to the Navy. In this case, the contract was awarded after the General Accounting Office had sustained the protest of a rival bidder, which accused the Navy of miscalculating the bid proposals in a manner that unfairly favored Brown & Root.¹³ As of August 2002, the Navy had reportedly given Brown & Root \$53 million in work orders over the past 15 months, including \$37 million to build detention cells at Guantanamo Bay, Cuba, where terrorist suspects captured in Afghanistan are being held.¹⁴

Like prior Brown & Root contracts, this contract has also raised questions of excessive costs for the taxpayer. The Seabees are the Navy's in-house construction brigade. According to a spokesman for the Seabees, "Seabees typically can perform the work at about half the cost of contractors."¹⁵

In December 2001, Brown & Root was awarded an exclusive, 10-year contract to provide support services to the Army. The contract has no dollar limit and it is reportedly the only logistical arrangement by the Army without an estimated cost.¹⁶ It allows Brown & Root to

¹¹Halliburton, *Halliburton Reports SEC Investigation of Accounting Practice* (May 28, 2002); Halliburton, *Halliburton Updates SEC Status* (Dec. 19, 2002).

¹²Halliburton, *Halliburton 2002 Fourth Quarter Adjustments* (Mar. 27, 2003).

¹³The rival bidder also claimed that Brown & Root had an unfair advantage because its proposed program manager was an active-duty Navy officer in the command that conducted the acquisition. GAO concluded that there was "no evidence that any impropriety or unfair competitive advantage resulted" from the apparent conflict of interest. *Matter of Perini/Jones Joint Venture*, General Accounting Office Decision (Nov. 1, 2000).

¹⁴Halliburton *Subsidiary Overcame Bid Protest, Fraud Investigation to Land Military Contracts*, Associated Press (Aug. 4, 2002).

¹⁵*In Tough Times, a Company Finds Profits in War*, New York Times (July 13, 2002).

¹⁶*Id.*

recover its expenses and a 1% base fee, plus an additional performance fee based on its costs.¹⁷ According to *Fortune*, the contract has been quite lucrative for the company:

To date, [Brown & Root] has received \$830 million from the program. The company is also helping to run Incirlik Air Base and other U.S. military facilities in Turkey (where an initial contract, set to expire in September, was worth \$118 million) and received \$65 million to support bases in Afghanistan and Uzbekistan. . . . Overall, Halliburton's backlog of government revenue expanded 40% in the last three months of 2002 alone.¹⁸

As is the case with the Navy contract, the company's services may come at the expense of the taxpayer. Army contract managers have indicated that Brown & Root's work in central Asia will cost 10% to 20% more than if military personnel were used.¹⁹

Most recently, Halliburton announced that Brown & Root had entered into a contract with the U.S. Army Corps of Engineers to extinguish oil well fires in Iraq. The contract, which is potentially worth tens of millions of dollars or more, was awarded without any competition or even notice to Congress. It has no set time limit and no dollar limit. Moreover, according to information from the Army Corps of Engineers, the contract is structured so that Brown & Root will recover its costs and receive an additional 2% to 5% of those costs. If this information is accurate, then the contract appears to encourage the contractor to inflate its costs and may not comply with federal procurement laws and regulations.

In the aftermath of the controversy surrounding the award of the Army Corps of Engineers contract, Brown & Root announced that it would not bid on a \$600 million U.S. Agency for International Development contract to reconstruct Iraq.²⁰ Halliburton was one of five companies handpicked by the Administration to bid on the contract, and some have suggested that the company will now attempt to play a lower-profile, but still lucrative, subcontracting role

¹⁷*A Contract to Spend*, MotherJones.com (May 23, 2002).

¹⁸*Will Halliburton Clean Up?* *supra* note 2.

¹⁹*In Tough Times, a Company Finds Profits in War*, *supra* note 15.

²⁰*Halliburton's Boomerang*, Los Angeles Times (Apr. 1, 2003).

on the contract.²¹ It remains unclear whether the company will bid on any of the remaining USAID contracts, amounting to hundreds of millions of dollars, for reconstruction of Iraq.²²

Questions to Investigate

In light of the above, we ask GAO to investigate whether Halliburton and Brown & Root have received special treatment from the Administration in the awarding of contracts. In particular, we request that GAO investigate the following questions with respect to all Defense Department contracts awarded since January 2001:

1. Did the Administration comply with all relevant procurement rules and regulations?
2. How did the Administration select Brown & Root for these contracts? Was adequate consideration given to other bidders? Did anyone other than career contracting officials at the Department of Defense influence or seek to influence the decisions to award Brown & Root the contracts?
3. Who, if any, of the decision makers within the Administration were aware prior to the awarding of the contracts that Brown & Root was under investigation for alleged overbilling of its contract work at Fort Ord, California? Did they adequately take this fact into account in deciding to award Brown & Root the contracts? If some or all of the decision makers were not aware of the Fort Ord investigation, why were they not aware of this matter?
4. What steps, if any, has the Administration taken to ensure that it can oversee Brown & Root's performance of its duties and monitor Brown & Root's costs under these contracts? Are these measures adequate?
5. What is the dollar value and nature of each contract and each task order assigned to Brown & Root pursuant to these contracts? When and how were these contracts and task orders signed or placed? Has the Administration adequately considered the advantages, financial and otherwise, of having work performed in-house or by another contractor prior to placing each task order or signing each contract?

²¹See, e.g., *Halliburton out of the Running*, Newsweek.com (Mar. 28, 2003).

²²The process by which the Army Corps of Engineers and USAID awarded these Iraq-related contracts is the subject of a companion request by us.


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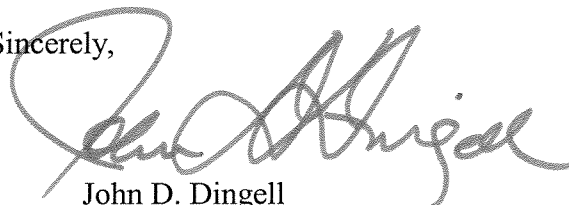
Page 7

We would appreciate an opportunity to discuss the scope of the project further at your earliest convenience. To arrange such a meeting please contact Paul Weinberger at (202) 225-5420.

Sincerely,



Henry A. Waxman
Ranking Minority Member
Committee on Government Reform



John D. Dingell
Ranking Minority Member
Committee on Energy and Commerce