

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM
MINORITY STAFF
SPECIAL INVESTIGATIONS DIVISION

UNITED STATES SENATE
DEMOCRATIC POLICY COMMITTEE

CONTRACTORS OVERSEEING CONTRACTORS: Conflicts of Interest Undermine Accountability in Iraq

**JOINT REPORT
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MAY 18, 2004

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EXECUTIVE SUMMARY

This report examines conflicts of interest in two oversight contracts issued by the Coalition Provisional Authority (CPA) in March 2004. It finds that the oversight contractors have close business relationships with the construction contractors that they have been hired to oversee.

On November 3, 2003, Congress appropriated \$18.4 billion for the reconstruction effort in Iraq. In March 2004, CPA awarded ten large monopoly contracts for this reconstruction work. CPA also entered into seven other contracts with private companies to oversee the implementation of the ten reconstruction contracts.

This report examines two of the oversight contracts: (1) a \$28.5 million contract awarded to a joint venture of Parsons and CH2M Hill to oversee \$1.7 billion in public works and water projects by four other contractors (Fluor, Washington Group International, AMEC, and Black & Veatch); and (2) a \$43 million contract awarded to a joint venture of Parsons and a separate company, Parsons-Brinckerhoff, to oversee \$1.6 billion in power generation, transmission, and distribution projects by four other contractors (Fluor, Washington Group International, AMEC, and Perini).

The report finds that neither Parsons nor CH2M Hill is an independent watchdog. Each oversight contractor has significant conflicts of interest.

Parsons has close business ties to Fluor, one of the companies it is charged with overseeing under both of the oversight contracts. Parsons and Fluor are partners in a \$2.6 billion joint venture to develop oil fields in Kazakhstan. In addition, actions that Parsons takes under the oversight contracts could directly affect its own reconstruction contracts. Parsons is teamed with Bechtel on USAID's \$1.8 billion Iraq Infrastructure II contract, which covers a range of sectors, including electricity and water projects. Parsons also has an \$800 million contract for oil-related work in northern Iraq. The prioritization and oversight of work under the CPA construction contracts could affect the work available for Parsons under the USAID contract, as well as Parson's work in the northern oilfields.

CH2M Hill has similar conflicts of interest. It has ongoing domestic contractual relationships with three of the firms it is responsible for overseeing: Washington Group International, Fluor, and AMEC. CH2M Hill and Washington Group international are "integrated partners" on a \$314 million Department of Energy cleanup project in Miamisburg, Ohio. In addition, AMEC, Fluor, and Washington Group International are all CH2M Hill subcontractors on a large Department of Energy cleanup project in Hanford, Washington.

I. BACKGROUND

On November 3, 2003, Congress appropriated \$18.4 billion for the reconstruction effort in Iraq.¹ A month later, the Administration announced its plans for spending these funds. These plans called for an initial round of 17 reconstruction contracts: ten construction contracts and seven oversight contracts.²

In March 2004, CPA awarded ten contracts worth \$5.1 billion for the reconstruction of various sectors in Iraq. In technical terms, these contracts are cost-plus, single-award indefinite-delivery/indefinite-quantity contracts. Indefinite-delivery/indefinite-quantity contracts are open-ended contracts that allow the federal government to place task orders for specific goods or services. Under the federal procurement regulations, these contracts are supposed to be awarded to multiple contractors so that there can be competition at the task order level.³ By awarding each contract to a single contractor, CPA precluded competition over specific task orders.

In effect, the ten construction contracts gave individual contractors monopolies over different sectors of the reconstruction effort. For example, Washington Group International received the contract for all electricity transmission and distribution work in northern Iraq, while Perini got the contract for this type of work in the south. Under this approach, there is no meaningful price competition for any of the over 2,000 specific reconstruction projects planned for Iraq.

The absence of price competition — combined with the cost-plus nature of the contracts — places the burden of protecting the interests of the taxpayer on the officials overseeing the contracts. In this case, however, CPA delegated the task of overseeing the contracts to private contractors. Seven program management contracts were issued on March 10, 2004.⁴ For each of six construction sectors, such as electricity or oil, CPA selected a private contractor to supervise and manage the construction contracts for that sector. A seventh, overarching program management oversight contract was awarded to AECOM.⁵

¹ Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, P.L. 108-106 (2004).

² CPA Program Management Office, Executive Summary of Draft Solicitations (2003).

³ 48 CFR 16.504(c) (“the contracting officer must, to the maximum extent practicable, give preference to making multiple awards of indefinite-quantity contracts under a single solicitation for the same or similar supplies or services to two or more sources”).

⁴ Department of Defense, *Iraq Reconstruction Contracts Awarded* (Mar. 10, 2004).

⁵ *Id.*

The contractors receiving these oversight contracts are carrying out essential government functions. Typically, government officials have the responsibility to develop project requirements and oversee construction work. Under the oversight contracts, these responsibilities are transferred to the private contractors. The oversight contractors are “responsible for the definition, prioritization, and coordination of requirements within defined work sectors and managing overall construction projects.”⁶ According to the Statement of Objectives referenced by the final solicitations, these contractors are expected to “provide oversight of multiple construction projects within the sector” and submit cost, schedule, and performance reports to AECOM.⁷ This means that the oversight contractors will be shaping projects and overseeing the work of construction contractors.

II. THE OVERSIGHT CONTRACTS

This report examines two of the seven oversight contracts: (1) the \$28.5 million contract awarded to a joint venture of Parsons and CH2M Hill to oversee construction work in the public works and water sector and (2) the \$43 million contract awarded to a joint venture of Parsons and Parsons-Brinckerhoff to oversee construction work in the electricity sector. Parsons is a planning, engineering, and construction company that operates in a variety of industries and in 38 countries.⁸ CH2M Hill is a global engineering and construction firm that operates in numerous industries and on six continents.⁹ Parsons-Brinckerhoff, which has no equity relationship to Parsons, is a global planning, engineering, management, and operations and maintenance firm.¹⁰

Under the first oversight contract, Parsons and CH2M Hill are charged with managing and overseeing three large monopoly contracts for the public works and water sector. One of these contracts was awarded to a joint venture of Washington Group International and Black & Veatch to repair and construct water resource supplies and transmission networks nationwide. The other two

⁶ CPA Program Management Office, *supra* note 2.

⁷ CPA Program Management Office, *Statement of Objectives for the Coalition Provisional Authority Program Management Office and Sector Program Management Offices* (Jan. 6, 2004). See also, Coalition Provisional Authority, *Iraq Reconstruction Pre-Proposal Conference Briefing* (Jan. 21, 2004).

⁸ Parsons website at www.parsons.com.

⁹ CH2M Hill website at www.ch2m.com.

¹⁰ Parsons-Brinckerhoff website at www.pbworld.com.

contracts went to a Fluor and AMEC joint venture for the rehabilitation and construction of potable water distribution and treatment systems, municipal sewer collection and treatment systems, and solid waste management systems. Together, the three public works and water construction contracts are valued at \$1.7 billion.¹¹

Under the second oversight contract, Parsons and Parsons-Brinckerhoff are responsible for managing and overseeing three monopoly contracts for the electrical sector. One of these contracts was awarded to a joint venture of Fluor and AMEC to construct, rehabilitate, operate, and maintain power generation facilities. The other two contracts were given to Washington Group International and Perini for electrical transmission, distribution, and communications and controls for the northern and southern regions of Iraq, respectively. Together, the three electrical construction contracts are valued at \$1.6 billion.¹²

III. FINDINGS

The report finds that both Parsons and CH2M Hill have ongoing contractual relationships with the construction contractors that they have been hired to oversee. Parsons is also in a position to benefit its own reconstruction efforts through the use of its oversight powers. Because of these conflicts of interest, neither Parsons nor CH2M Hill is the independent watchdog needed to provide rigorous oversight of substantial expenditures of taxpayer funds.

A. Parsons's Conflicts of Interest

Under both of its oversight contracts, one of the companies that Parsons is supposed to oversee is Fluor. Parsons, however, is the business partner of Fluor in a \$2.6 billion joint venture to develop oil fields in Kazakhstan. Under the terms of their joint venture contract, which is expected to run until 2006, Parsons and Fluor have the responsibility to increase production of oil, gas, liquefied petroleum gas, and sulfur at the Tengiz and Korolev Fields. The contract also calls for the construction of a new 120-kilometer pipeline. Parsons and Fluor each own 50% of the joint venture.¹³

¹¹ Department of Defense, *Iraq Reconstruction Sector Contracts Awarded* (Mar. 11, 2004); Department of Defense, *Additional Iraq Reconstruction Contracts Awarded* (Mar. 23, 2004).

¹² Department of Defense, *Iraq Reconstruction Sector Contracts Awarded* (Mar. 11, 2004); Department of Defense, *Iraqi Reconstruction Sector Contracts Awarded* (Mar. 12, 2004).

¹³ *Fluor Joint Venture Reconfirmed Prime EPCM Contractor for Execution of \$2.6 Billion Oil Field Development Project in Kazakhstan*, Fluor Corporation (Mar. 3, 2003).

This arrangement with Fluor places Parsons in a conflicted position. Under its contract with CPA, Parsons is expected to provide aggressive oversight over its partner in a major joint venture. The Kazakhstan project is over 90 times more valuable than Parsons's oversight contract.

Actions that Parsons takes under the oversight contract could also directly affect its own reconstruction contracts. Parsons is teamed with Bechtel on USAID's Iraq Infrastructure II contract. This contract, which has a value of \$1.8 billion, covers a range of sectors, including electricity and water projects.¹⁴ The prioritization and scheduling of work under the CPA contracts could affect the value and type of electricity and water work available for Parsons and Bechtel to perform under the USAID contract.

In addition, Parsons has an \$800 million contract with the U.S. Army Corps of Engineers for the restoration of the oil infrastructure in northern Iraq.¹⁵ The reconstruction work that Parsons is overseeing includes both electricity reconstruction and water projects, both of which can directly affect Parsons's work under the oil contract.

B. CH2M Hill's Conflicts of Interest

Parsons's partner in the first oversight contract, CH2M Hill, also has serious conflicts of interest. Although CH2M Hill is responsible for overseeing the activities of Fluor, Washington Group International, and AMEC, it is not an independent overseer. To the contrary, it has multiple business relationships with these companies in the United States.

For example, CH2M Hill and Washington Group International are collaborating on a \$314 million Department of Energy contract in the United States. The two companies are "integrated partners" on an environmental closure contract in Miamisburg, Ohio.¹⁶ The contract, which is worth \$90 million annually, is for cleanup work scheduled to be completed in March 2006.¹⁷

¹⁴ U.S. Agency for International Development, *USAID Awards Iraq Infrastructure II Contract* (Jan. 6, 2004).

¹⁵ U.S. Army Corps of Engineers, *U.S. Army Corps of Engineers Awards Contracts for Repair of Iraq's Oil Infrastructure* (Jan. 16, 2004).

¹⁶ *CH2M Hill, Washington Group International, BWX Technologies Team Wins \$314 Million Environmental Closure Contract in Ohio*, Washington Group International (Dec. 6, 2002).

¹⁷ U.S. Department of Energy, Ohio Field Office, *Site Info: Miamisburg* (Apr. 26, 2004) (online at www.ohio.doe.gov/site/sitememp.asp).

In fact, CH2M Hill has business relationships with three of the companies it is supposed to oversee as a result of its work at another site. CH2M Hill is the Department of Energy's prime contractor for storing and retrieving 53 million gallons of radioactive and hazardous waste at the Department's Hanford site in Washington State.¹⁸ This contract, which continues until 2006, is worth about \$380 million in 2004 alone.¹⁹ AMEC, Fluor, and Washington Group International are all key CH2M Hill subcontractors on this project.²⁰

C. The Contracts' Award Fees

The structure of the oversight contracts exacerbates these conflicts of interest. Under the oversight contracts, the award fee provided to the oversight contractors is based in part on an assessment of the performance of the construction contractors they are charged with overseeing.²¹ The better the performance, the higher the award fee of the oversight contractor. This creates a financial incentive for the oversight contractors to give high marks to the work of the construction contractors.

IV. CONCLUSION

In government contracting, two safeguards are commonly used to protect the taxpayer from waste, fraud, and abuse: (1) fixed-price contracts are employed to avoid giving contractors an incentive to run up costs, and (2) competition is promoted to allow market forces to discipline prices. In the reconstruction contracts in Iraq, neither of these two safeguards is present. The major reconstruction contracts are cost-plus contracts that preclude price competition for specific reconstruction projects. The absence of these safeguards increases the burden placed on oversight officials to hold contractors accountable and to protect taxpayer interests.

In Iraq, CPA has given the responsibility for this essential contract oversight to private contractors. This report has found that these private contractors have

¹⁸ Department of Energy, *Who's Who at Hanford* (Apr. 26, 2004) (online at www.hanford.gov/top/whowho.html).

¹⁹ General Accounting Office, *The Primary Contractors and Subcontractors Supporting the DOE Hanford Site's Office of Rover Protection and the Richland Operations Office* (undated).

²⁰ *Id.*

²¹ Program Management Office, *Draft Award Fee Plan for Coalition Provisional Authority Sector Program Management Office Support Contract* (Dec. 2003) (online at www.rebuilding-iraq.net/pdf/rfps/spmo_attach_4_award_fee_plan.pdf).

conflicts of interest. The conflicts include ongoing business relationships with the construction contractors they have been hired to oversee, as well as conflicts with their own reconstruction contracts. Without the discipline of price competition and rigorous and impartial oversight, the Iraq reconstruction contracts will be vulnerable to waste, fraud, and abuse.