

DARRELL E. ISSA, CALIFORNIA
CHAIRMAN

ONE HUNDRED THIRTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

JOHN L. MICA, FLORIDA
MICHAEL R. TURNER, OHIO
JOHN J. DUNCAN, JR., TENNESSEE
PATRICK T. McHENRY, NORTH CAROLINA
JIM JORDAN, OHIO
JASON CHAFFETZ, UTAH
TIM WALBERG, MICHIGAN
JAMES LANKFORD, OKLAHOMA
JUSTIN AMASH, MICHIGAN
PAUL A. GOSAR, ARIZONA
PATRICK MEEHAN, PENNSYLVANIA
SCOTT DESJARLAIS, TENNESSEE
TREY GOWDY, SOUTH CAROLINA
BLAKE FARENTHOLD, TEXAS
DOC HASTINGS, WASHINGTON
CYNTHIA M. LUMMIS, WYOMING
ROB WOODALL, GEORGIA
THOMAS MASSIE, KENTUCKY
DOUG COLLINS, GEORGIA
MARK MEADOWS, NORTH CAROLINA
KERRY L. BENTIVOLIO, MICHIGAN
RON DeSANTIS, FLORIDA

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

FACSIMILE (202) 225-3974

MINORITY (202) 225-5051

<http://oversight.house.gov>

CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
STEPHEN F. LYNCH, MASSACHUSETTS
JIM COOPER, TENNESSEE
GERALD E. CONNOLLY, VIRGINIA
JACKIE SPEIER, CALIFORNIA
MATTHEW A. CARTWRIGHT, PENNSYLVANIA
L. TAMMY DUCKWORTH, ILLINOIS
ROBIN L. KELLY, ILLINOIS
DANNY K. DAVIS, ILLINOIS
PETER WELCH, VERMONT
TONY CARDENAS, CALIFORNIA
STEVEN A. HORSFORD, NEVADA
MICHELLE LUJAN GRISHAM, NEW MEXICO
VACANCY

LAWRENCE J. BRADY
STAFF DIRECTOR

April 1, 2014

William P. Utt
Chairman, President, and Chief Executive Officer
KBR, Inc.
601 Jefferson Street
Houston, TX 77002

Dear Mr. Utt:

We are writing to request documents relating to KBR's treatment of potential whistleblowers seeking to report wrongdoing at the company, particularly with respect to its contracts with federal government agencies.

According to a recent *Washington Post* article, KBR's Vice President of Legal Affairs confirmed in a recent deposition that the company uses confidentiality agreements to prohibit employees from discussing the subject matter of allegations of wrongdoing unless the disclosure is specifically authorized by KBR's General Counsel.¹

According to the article, these confidentiality agreements admonish employees that "unauthorized disclosure of information" could cause "irreparable harm" to the company and that violations could result in "disciplinary action up to and including termination of employment." The article also provided a summary of KBR's explanation for these confidentiality agreements:

Mark E. Lowes, KBR's vice president of litigation, said the confidentially statements are designed to protect the integrity of the internal review process, not to conceal information. He said that the company often receives unfounded complaints and that the process is designed to ensure those complaints are not publicly circulated. He also said KBR employees are encouraged to report allegations of wrongdoing. If those allegations are supported by the facts, he said, they are forwarded to the proper authorities.²

¹ *Lawsuit Brings to Light Secrecy Statements Required by KBR*, *Washington Post* (Feb. 19, 2014) (online at www.washingtonpost.com/world/national-security/lawsuit-brings-to-light-secrecy-statements-required-by-kbr/2014/02/19/6e2a8818-9998-11e3-b88d-f36c07223d88_story.html).

² *Id.*

As you may know, the Committee has conducted extensive investigations into previous claims of fraud relating to KBR's contracts with the Department of Defense, including within the Logistics Civil Augmentation Program (LOGCAP), and we have relied on whistleblowers who were willing to come forward despite the risks to their own reputations and careers.³ According to the transcript of the recent deposition, the number of complaints received since 2003 relating to KBR's LOGCAP III contract alone are "probably pushing up to a thousand, maybe even more."⁴

The use of these confidentiality agreements could raise significant concerns if employees of federal contractors are being prohibited from disclosing allegations of waste, fraud, or abuse to government agencies, Congress, or Inspectors General. Obviously, requiring employees to clear such reports through KBR's general counsel's office before reporting them to the government would defeat the purpose of good government laws and whistleblower protections enacted by Congress.

To assist our inquiry into this matter, please provide the following documents and information:

1. All complaints or tips submitted to KBR from employees, subcontractors, or any other individuals from 2002 to present;
2. For each complaint or tip submitted from 2002 to the present:
 - a. the date the complaint or tip was submitted;
 - b. a description of any internal or external investigative steps taken in response to the complaint or tip;
 - c. a description of any disciplinary action taken relating to the complaint or tip;
 - d. a description of the disposition of the complaint or tip;
 - e. whether a confidentiality agreement was in place for the employee, subcontractor, or other individual who submitted the complaint or tip;
 - f. whether the individual who submitted the complaint or tip was authorized subsequently to discuss the matter outside KBR; and

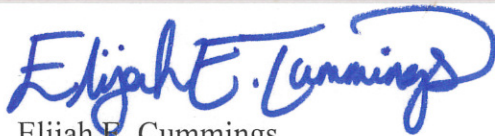
³ See, e.g., House Committee on Government Reform, *Hearing on Unprecedented Challenges: The Complex Task of Coordinating Contracts amid the Chaos and Rebuilding of Iraq*, 108th Cong. (June 15, 2004) (online at www.gpo.gov/fdsys/pkg/CHRG-108hhrg96407/pdf/CHRG-108hhrg96407.pdf). See also Letter from Ranking Member Henry A. Waxman to Chairman Tom Davis, House Committee on Government Reform (June 14, 2004) (online at <http://webharvest.gov/congress110th/20081125182316/http://oversight.house.gov/documents/20040623112249-71664.pdf>).

⁴ Exhibit 14 to Reply in Support of Plaintiff-Relator's Motion to Compel (Feb. 18, 2014), *United States ex rel. Harry Barko v. Halliburton Co., et al.*, D.D.C. (No. 1:05 CV 01276).

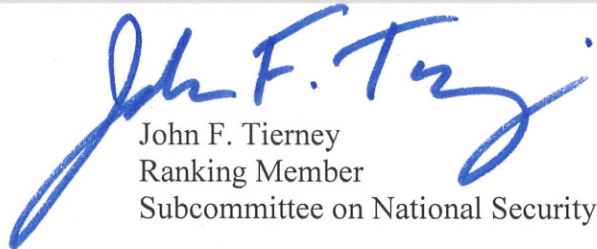
- g. the names of any outside entities to which the complaint or tip was referred and the date it was referred.
- 3. Copies of all confidentiality agreements restricting employees in any way from reporting allegations of waste, fraud, or abuse, as well as the identities of any outside counsel or other parties who assisted with drafting such agreements; and
- 4. All policies and procedures relating to the use, application, enforcement, or waiver of confidentiality agreements in relation to internal complaints, tips, and investigations.

Please provide the requested documents and information by April 22, 2014. If you have any questions about this request, please contact Peter Kenny or Krista Boyd of the Committee staff at (202) 225-5051. Thank you for your cooperation with this request.

Sincerely,



Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform



John F. Tierney
Ranking Member
Subcommittee on National Security

cc: The Honorable Darrell E. Issa, Chairman
Committee on Oversight and Government Reform

The Honorable Jason Chaffetz, Chairman
Subcommittee on National Security