

## Senate Democratic Policy Committee Hearing

Wednesday, July 9, 2008

2:00 p.m. to 3:30 p.m.

608 Dirksen Senate Office Building

“Safeguarding Taxpayer Dollars in Iraq: An Insider's View of Questionable Contracting Practices by KBR and the Pentagon”

### Hearing Transcript

SEN. DORGAN: I call the hearing to order. This is a hearing of the Democratic Policy Committee. This is the sixteenth in a series of oversight hearings that we have held to examine contracting waste, fraud and abuse with respect to the war in Iraq and Afghanistan.

But let me make a couple of opening comments. We are joined today by our witness, Mr. Charles Smith, who is from Davenport, Iowa, and has travelled to Washington, D.C. We are appreciative of having you here.

This hearing, as will be the case of a hearing on Friday of this week, deals with contracting in Iraq. In both cases they deal with a company called Halliburton, with a subsidiary called Kellogg, Brown and Root.

I want to be clear that this Committee has no brief for or against any company, but we do have a brief for the American taxpayer. And what I think has happened with respect to contracting in Iraq is almost unbelievable.

The waste, fraud and abuse is staggering. And we've held a good many hearings on that subject. We have always done so, acknowledging that the authorizing committees, if they wish to do a hearing, we would not do the hearings. But we have done these hearings because we believe oversight is necessary.

We've developed a substantial amount of information, with which we have moved to inform the Pentagon and others of what we have learned in a number of circumstances. Secretary Gates is now investigating a couple of things that we have learned, and others are, as well.

Today we'll hear from a single witness, and Mr. Smith is really quite a remarkable witness. Last month, Mr. Smith described publicly for the first time how he was summarily removed as the Director of the Army's Field Contracting Division after he objected to the payment of over 1 billion dollars in unsupported costs by Kellogg, Brown and Root, which is a subsidiary of Halliburton Corporation.

Mr. Smith's testimony today will be his first appearance before the Congress and the American people to explain in detail how the Army essentially ended his career for trying to protect the American taxpayers and our troops.

This is not the first time the Pentagon has retaliated against a very senior contracting official who objected to special treatment for Kellogg, Brown and Root.

This Committee has held two hearings to investigate how the Army demoted Bunnatine Greenhouse, who was the most senior civilian contracting official at the Army Corps of Engineers.

She was demoted after she objected to the Army's deal with KBR, a contracting deal that she felt was a sweetheart deal that violated the rules for a massive contract to restore Iraq's oil production.

She told this committee, and I quote, "I can unequivocally state the abuse related to contracts awarded to Kellogg, Brown and Root represents the most blatant and improper contract abuse I have ever witnessed during the course of my professional career."

For this, Ms. Greenhouse was demoted and replaced with an official who had no contracting experience at all, and who had to go to evening classes just to learn the basics. This was unbelievable to me. It is still under investigation at the Pentagon.

Bunnatine Greenhouse had great courage and was willing to risk her career to tell the truth, and tell the American people what was happening.

There seems to be a concerted effort at the Pentagon to award huge contracts to certain companies and protect those contracts at all costs, no matter the company's performance.

We've seen overcharging for meals and oil supplies, to retaliation against whistleblowers who uncovered all manner of contracting abuses, to exposure of troops and workers to deadly chemicals and contaminated water.

In 2006, for example, this committee held two hearings to examine multiple allegations that Kellogg, Brown and Root was providing contaminated water to our troops.

Both KBR and the Pentagon denied there was such a problem, even though internal KBR reports, which we had, showed that there had been a serious problem that could have, in their own words, quote, "Caused mass sickness or death."

In April of 2007, the Pentagon sent a two-star general, Brigadier General Jerome Johnson, to a hearing of the Armed Services Committee to deny flatly that there was any problem with the water KBR was supplying to the bases in Iraq.

In March of this year, the Inspector General of the Defense Department reported there was a serious problem with water contamination in Iraq, along with a spike in water-related illnesses among U.S. troops.

What's more, the Inspector General also reported it had alerted the Pentagon of this fact several weeks before General Johnson provided his testimony, flatly denying it.

I have asked the Secretary of Defense to investigate that. It's a very serious matter if the Department of Defense sends a two-star General to this Congress to tell the Congress something that is simply not true and have known to be not true.

As we'll see today—we'll hear in detail about General Johnson, who misled Congress, I believe, about the water issue. He was also the officer who apparently ordered that Mr. Smith be removed as the Director of Contracting after Mr. Smith objected to paying Kellogg, Brown and Root over \$1 billion in questionable costs. In fact, the Pentagon ended Mr. Smith's career, also, for doing his job.

I want to thank Mr. Smith for having the courage to come forward and speak to the Congress and the American people.

I know it's not easy to do that. I should note that we have—as we have in the past—invited Kellogg, Brown and Root to be present at this hearing.

We've also made it a bipartisan request. We always invite members of the other caucus, as well, to join us. And we are here, however, to try to advance knowledge and inform us and the American people of what's happening, so that we can investigate and go to the Pentagon with this information.

Mr. Smith, I really appreciate you being here. We're going to have the buzzers ring in about eight minutes, but we don't have to leave until the end of the—I believe we have to leave at 2:30 to catch the last part of this vote and then the first part of the next vote.

So we'll have about a 15 minute recess. If my colleagues have short opening statements, I'd be glad to recognize them for that. Senator Tester—

SEN. TESTER: Thank you, Mr. Chairman, but I want to especially thank Mr. Smith for being here.

I've got to tell you—you've got guts, you've got honesty, integrity, you've got common sense. And for that, you lose your job. For protecting the taxpayers—for protecting the taxpayers of this country, you lose your job.

There's something wrong with that picture. That's not how my parents would have envisioned it, I will tell you that. And that's not how I envision it either.

I look forward to your testimony, and I've just got to tell you that I really appreciate it. It would have been much easier for you to stay in Davenport, Iowa and soak in the sunny rays there. We're glad you're here in Washington, D.C. Thank you for coming.

SEN. DORGAN: Senator Sanders.

SEN. SANDERS: Well, thank you, Mr. Chairman, for holding this important hearing, and Mr. Smith, thank you for what you are doing.

You're giving many of us—the American people—faith that there are public servants out there that will have the courage to stand up to powerful forces, demand integrity and do the right thing. And we really do appreciate that.

Mr. Chairman, as you know, the Pentagon budget is now over \$500 billion. You throw in a couple of wars and we're over \$700 billion, and even in Washington that is a lot of money.

But somehow, there has—over the years—been a reluctance to take a hard look at the Pentagon, and the reason is obvious: that any of us that do that, suddenly we are unpatriotic, we're not concerned about terrorism and so forth, and so on. And, needless to say, nothing could be further from the truth.

In fact, I think the point that you make, and the Chairman made, is that every nickel that is being ripped off in illegal ways by private contractors, among other things, is a nickel not going to our troops and to the services that they need.

Not to mention the fact that this country has a \$9.5 trillion dollar national debt, which is impacting our economy and our position in the world. So, clearly, one of the things that we have got to do—and I applaud Chairman Dorgan for doing this—is take a hard look at the waste and fraud that is currently going on in the Pentagon.

There is no clearer example of the absurd policies that we're presently seeing than when somebody has the courage to say, "I'm not going to pay out a billion dollars unless I get documentation!"

And their reward for doing the right thing is to get fired. Clearly, we know that something is very, very wrong there. So, Mr. Smith, thank you so much for what you have done. Mr. Chairman, thanks again for holding this hearing.

SEN. DORGAN: Senator Sanders, thank you so much. Senator Whitehouse, we are about to go to the witness, but if you have a brief opening comment, we'd be happy to respond.

SEN. WHITEHOUSE: My brief opening statement is only to extend my appreciation to you, Senator Dorgan, for continuing this effort. I think it is enormously helpful to our country to have you be so relentless at trying to get to the bottom of this.

And certainly, we saw that during the time that the other party controlled the Congress, there was zero oversight of this mess whatsoever. So, better late than never, and my applause is to you.

SEN. DORGAN: Mr. Smith, you've travelled from Iowa. You formerly served as the head of the Field Support Contracting Division of the Army Field Support Command, where you were in charge of something called the LOGCAP contract, the Pentagon's largest contract in Iraq.

You spent your entire career at the Rock Island arsenal in Rock Island, Illinois. You were a civilian employee of the U.S. Army for 31 years. You earned your B.A. in Philosophy and Economics from Washington and Lee. You hold a Master's Degree in Public Administration from the John F. Kennedy School of Government at Harvard.

You are, as my colleague indicated, a courageous man for being willing to speak out and tell the truth to the Congress and the American people. We welcome you here, and you may proceed.

CHARLES SMITH, FORMER HEAD OF FIELD SUPPORT CONTRACTING DIVISION OF THE ARMY FIELD SUPPORT COMMAND: Chairman Dorgan and distinguished members of the Committee, thank you for the opportunity to appear before you today and share my experience managing the Logistics Civil Augmentation Program (LOGCAP) III contract.

During my time as Chief of the Field Support Command Division, I personally saw KBR submit over \$1 billion worth of unsupported charges to the government. The Defense Contract Auditing Agency (DCAA) documented as much as \$1.8 billion in unsupported costs during that time.

Instead of tightening controls over the contract, the Pentagon essentially outsourced oversight over LOGCAP III from the DCAA to a private contractor and waived its normal 15 percent withholding of payment prior to negotiation of estimated costs.

The whole process was irregular and highly out of the ordinary. The interest of a corporation, KBR, not the interests of American soldiers or American taxpayers, seemed to be paramount.

In 31 years of doing this work, I have never seen anything like the way KBR's unsupported charges were handled by the Department of Defense.

The years that I spent overseeing the LOGCAP III contract were initially the most fulfilling of my career, because I felt that the services being provided under the contract were a key component to the well-being of U.S. troops during wartime.

Were it not for the Army's decision to remove me from my position managing the LOGCAP III contract, I would still be serving the Army. The Army's decision to remove me from supervision of the LOGCAP contract essentially ended my career with the Army, and made it impossible for me to be promoted to positions of greater responsibility. This was a bitter end to my 31-year career.

LOGCAP III was critical to the life support and comfort of troops in Iraq and, therefore, to the success of the mission. The contract was designed to provide an immediate response to a contingency operation, with the contractor providing Combat Support/Combat Service Support (CS/CSS).

So that services under the LOGCAP III contract could begin immediately upon receipt of a request from the Combatant Commander, task orders were awarded on an "unpriced" basis. This meant that the Army used a rough order of magnitude estimate of costs to commence performance.

From the inception of hostilities in Afghanistan in 2002, we awarded numerous task orders to KBR on this basis. With the commencement of the war in Iraq in 2003, the number and size of task orders increased exponentially.

Awards under LOGCAP III have run at the approximate rate of \$5 billion per year. Oversight support from the Defense Contract Management Agency (DCMA) and the DCAA were understaffed.

The Department of Defense understaffed management of the LOGCAP III contract from the beginning. During an earlier phase of the LOGCAP contract, known as LOGCAP II, the government provided me with a two and a half-person management team that consisted of a contract officer, a contract specialist and a part-time lawyer.

This provided management for a project worth approximately \$100 million per year. For LOGCAP III, I was once again provided a management staff of two and a half—but this time it was for a contract that ended up amounting to fifty times more money (\$5 billion dollars per year).

Given the unsupported charges submitted by KBR, that management and oversight was sorely needed.

To give two examples, KBR submitted inflated meal counts that did not match DCAA's data on camp populations. The company also submitted invoices for more trucks than could reasonably have been used by the military.

Of the \$1 billion dollars-worth of overcharges documented by the DCAA, approximately 25 percent of the overcharges were unsubstantiated dining costs, another quarter were unsubstantiated material purchases and another 25 percent were unsubstantiated labor costs.

KBR's general cost accounting, cost estimating, and sub-contracting systems were so flawed that KBR had to do a mass reconciliation of its own accounts. DCAA declared that KBR's projected costs were unacceptable, that they overstated costs, and used incorrect algorithms to estimate future costs.

In addition, the work of subcontractors was inadequately documented and they failed to provide the government with a paper trail for work performed.

By May 2004, DCAA had endorsed withholding 15 percent of payments to KBR until the company reconciled its unsupported charges with the government. This was standard contracting practice and a method for encouraging contractors to give an accurate description of costs.

The government had waived the 15 percent withholding requirement prior to 2004 due to the repeated changes made in the task descriptions under the contract. In 2004, however, these descriptions were consistent and KBR was expected to provide auditable proof of costs and auditable proposals under the LOGCAP III contract.

By May 2004, the base situation in Iraq and Afghanistan had stabilized. The government was better staffed to audit and negotiate definitization proposals and any delays in definitization would now be the responsibility of KBR.

As a result, the government decided to implement the 15 percent withholding on invoices. The government and KBR agreed upon a definitization schedule. This schedule was predicated on KBR obtaining full approval of their cost accounting, estimating and subcontracting systems. Failure to meet these schedules would be cause for the government to consider unilateral definitization of task orders.

These actions were a coordinated government response, briefed through my chain of command. Concerning the 15 percent withhold, we asked KBR to provide any impacts to the government along with any suggestions on how best to implement this. As always, we attempted to work with KBR to achieve the best outcome on these issues.

In June of 2004, the Army Sustainment Command (ASC) Commander, Major General Wade Hampton McManus, Jr., retired and was replaced by Brig. General Jerome Johnson.

I was requested to meet with General Johnson in the Washington, D.C. area, at KBR's offices. This meeting was also attended by government personnel from the office of the Assistant Secretary of the Army for Acquisition, Logistics and Technology (ASAALT) and my HQ of the Army Materiel Command.

In a morning session with KBR, I reviewed our position and noted that KBR was not making the necessary progress to provide me with government proposals. In an afternoon session, General Johnson attacked me over another issue, that of locating our

contracting staff in theater. This was rather strange behavior in a government/contractor meeting, more appropriate to a government-only setting.

Following this meeting I spent most of the next month on travel in Iraq, Kuwait and Qatar. I returned in time for a major session with KBR and all of the government participants in contract administration, including DCMA and DCAA.

We were still dealing with the issues of disapproved business systems, among others. My Contracting Officer had prepared a letter implementing the 15 percent withhold and presented this to KBR in an evening session, which I did not attend. The next morning she informed me that KBR personnel told her the decision would be overturned.

Shortly thereafter, my Contracting Officer and I were requested to participate in a conference call with General Johnson, who was in Washington at the time. He directed us to retrieve the letter and issue a different one, which did not implement the 15 percent withhold, but repeated the request for impacts on KBR. We did so.

Later during this conference, I was informed that I would be replaced as Chief of the Field Support, and Contracting Division. Within several months, my Contracting Officer was also replaced.

In August 2004, I was re-assigned to help develop strategy for the LOGCAP IV contract. As I continued to work on the program, developing LOGCAP IV, I attended briefings and meetings in which overall management of the contract was discussed. I observed a number of actions which I did not feel were appropriate contracting.

These actions were:

- The 15 percent withhold was waived and has never been implemented to my knowledge.
- General Johnson specifically asked that contractor RCI (now SERCO) be hired to do a pricing review of KBR proposals. RCI's pricing analysis replaced the DCAA audits as the basis for definitizing estimated costs on task orders. My understanding is that RCI performed regression analysis on incurred costs to provide estimates at completion. To do this would have required the auditable data which would have allowed DCAA to complete the audits in the first place.
- Almost all of the costs questioned by DCAA were settled by DOD in favor of KBR.
- \$1 billion in Dining Facility Costs were converted from a cost-type contract to fixed-price. DCAA had questioned over \$200 million of these costs as unreasonable due to poor sub-contracting. This resulted in the government paying for thousands of meals which were never served to troops. The only result of this conversion was that KBR was protected from a post contract audit, which may have disallowed payment of these costs as unreasonably incurred. Only cost type contracts are subject to such audits. The profit

on this contract was also set at 3 percent, the maximum fee KBR would receive on a cost contract.

- Another \$1 billion in dining facility costs were definitized as a cost contract and were given a high award fees with no evaluation of the work performed.
- Upon definitization, Award Fee Boards were held which routinely awarded KBR fees which indicated exceptional performance. We should all be aware, that while KBR accomplished many actions in an effective manner for the government, there were problems. These should have been reflected in award fee evaluations.

These actions resulted in excessive costs incurred by KBR and excessive fee payments. By the time this was done, the Army had a fixed budget for running the war. I was in a meeting with General Casey when he was still the Vice Chief. He was concerned about how to limit the costs of troop support so that other needs could be met.

My personal estimate is that these costs exceeded \$1 billion. This sum was thus unavailable to provide other needed support for soldiers.

I am aware the Army has stated that these payments were necessary to keep KBR from failing to provide the correct support under LOGCAP. I do not believe this was the case

Certainly KBR on occasion told us that cash flow issues threatened performance. These statements were uniformly followed by a senior KBR leader assuring us that KBR would never cease performance under the contract. I believe such action would have significant harm to KBR and would have threatened the existence of the company.

Halliburton, the KBR parent, had provided the government with financial guarantees of performance during the solicitation phase, so they would have been involved in any government litigation by such an action.

Finally, there were many fine employees at KBR in leadership positions, often former military, who would not consider leaving our troops unsupported after accepting a contract to do so.

Based upon my experience with the LOGCAP contract I would make the following recommendations:

- DOD should conduct further study of the costs and benefits of providing this support through contractors, versus organic military support. Current operations have provided significant data on the costs of using contractors. I believe earlier studies also did not take into account the cost of administration of such a large contractual endeavor. These studies also did not take into account the risk that a contractor will leave the theater, which a soldier did not do. I believe there is such a risk, based not on money, but on the force protection situation. Significant casualties might force a contractor to withdraw.

These studies also did not take into account the risk associated with deploying over 130,000 non-combatants in place of support troops who can also fight if required.

- Should the decision be to continue to use contractors, then we should use the most effective and efficient contracts. LOGCAP IV makes significant progress in this direction by introducing multiple contractors and competition into the process. Decisions on the use of cost versus fixed price vehicles and payment procedures are among the contractual issues that may be improved.
- Controls on requirements during the first phases of operations should be explored. Contractors are happy to provide as much as the Army orders and should not be expected to encourage restraint.
- The findings of the Gansler Commission must be implemented to provide a deeper and better trained contracting force. DCMA in particular was called upon to administer this contract without the necessary staffing, training and experience base.

I was continually impressed with the work done by DCMA managers and Administrative Contracting Officers in trying conditions.

This closes my recommendations. I appreciate your attention to my statement and will be happy to answer any questions you have.

SEN. DORGAN: Mr. Smith, thank you very much. I have many questions, as I am sure some of my colleagues do, but there is just five minutes remaining on the current vote. It'll be followed immediately by a second vote, so it will take us fifteen minutes to reconvene. This hearing will be in recess until 2:45.

THE HEARING IS IN RECESS

SEN. DORGAN: We will reconvene the hearing. I apologize for the delay, but we have just completed the first vote and started the second, so some of my colleagues will return as well.

Mr. Smith, I have held previous hearings, and let me give you some examples, and see if these examples sound plausible to you.

A Linda Warren came before our Committee and Linda Warren said that she was in charge as supervisor of a recreation facility for KBR. She said each person who walked through the door signed the sheet, and, therefore, the contractor got a certain amount of money for the number of people who utilized that recreation facility.

She said that was the actual count, the number of people who came through the door. But she said the facilities were broken down into different rooms. There was a movie theatre,

a gymnasium, a game room, video room... and every time one of the troops went into another room where an activity was going on, that soldier was counted again.

And on top of that, they did hourly counts. And so a KBR employee would walk through the building and count everyone present and add that to the daily count each hour. It was possible for a soldier to be counted eight times or more during a short stay in the building.

The soldier might not have done anything but move from room to room to see what was going on, but that soldier was counted as six or eight different soldiers for billing purposes to have visited the recreation center. That, from a Linda Warren.

Marie DeYoung described bids received for an ice factory, two bids. One for \$3.4 million, one for \$450,000. According to a memo from the subcontract administrator, the companies were equally qualified, except for the price difference, and the selection was for the \$3.4 million as opposed to the \$450,000.

A man named Rory told us about the charging for meals for 10,000 soldiers at a base where he was located—a KBR employee, food service supervisor—charging 10,000 meals when, in fact, there were only 5,000 soldiers there.

These are things we've heard before. Now, you were engaged in trying to audit and understand what was being charged. Do these things sound plausible to you?

MR. SMITH: Some of them do, and some of them I would want to know more background. Let me address each one of those.

On the rec centers: theoretically under the contract, and as far as I know, the head count should not have made a difference. KBR should have billed the government the actual costs of operating that recreational center. Their staff, you know, building the center costs, and the salaries during operational periods no matter how many people used it.

Now whether that head count justified more staff, in the long run, that they could say, "Okay, I've got a head count of a certain amount, therefore I have this staffed by a certain number of employees, and then the salaries are justified." That's a possible way that could have run.

But, again, the head count itself—it should be the actual costs, and they should have then been auditable. The auditor should have been able to find out how many people were involved in operating, what were the work hours, what were their salaries and these were the actual costs.

As far as the ice plants, the ice plants were a big issue with us and KBR. Originally KBR was transporting into theater on trucks. And, of course, given the security situation, this was inefficient.

And ice was so important. So KBR and we agreed that ice plants should be constructed in theater. And the problems I had were some delays in getting this done. I was getting calls from high-level in theater about the ice problem.

KBR continued to deliver ice in the inefficient way while they got the ice plants together. But it was a long, drawn-out—they didn't meet a lot of the goals that they themselves had agreed to earlier.

As far as the subcontracting, that was a major problem. In our—not in that one particularly—I do not know the details of that one, but DCAA kept telling me in audits and other reports that they had trouble getting information out of KBR's subcontracting system.

If they wanted to look at the file that said this is how we solicited, these are the two bids that came in, this is why we chose one bid over the other, they found the documentation limited, and so they would see the same situations you described, where they appeared to take a high bid without any justification.

So DCAA would question those costs and say, "Look, you took the 3 million dollar bid instead of the 400,000 dollar bid. It may have been a good reason, but we can't see it in your documentation." So those were the kinds of exceptions to KBR cost proposals. The DCAA auditors were finding no support for the path KBR took.

SEN. DORGAN: What about the issue of troops? You know, I've heard examples of charging for 42,000 meals a day when only 14,000 meals were served. I just described Rory, who was a food service supervisor for KBR, who said that they were charging for 10,000 meals when only 5,000 meals were served.

MR. SMITH: This was the main issue DCAA had with the dining facilities as they were originally subcontracted for by KBR. That they wrote subcontracts, which were not based on actual costs.

My contract with KBR said I will pay you the actual costs of performing this task. They wrote subcontracts, solicited and worded subcontracts, which had very odd provisions that set thresholds on meals, set performance levels where exactly the situations where you described and were described by many others, were described by the DCAA auditors took place, where KBR's subcontractor was billing for thousands of meals that were never delivered.

That was the big issue that KBR took with the first year of DFAC subcontracts. That was the approximately \$200 million dollars. The DCAA, at my understanding, was prepared to say was unallowable because it was unreasonably incurred.

SEN. DORGAN: Let me ask you, so at some point you decided we're going to confront the contractor here and say, "Look, we're not going to approve funding because we don't

have the capability to see that this has actually been spent, or that this represents adequate billing.” So there are meetings going on, and at some point you’re dismissed.

You indicated that you didn’t know you were dismissed as the top contract officer of LOGCAP III until you showed up at a meeting and the person that replaced you was sitting at a meeting in your chair. Is that correct?

MR. SMITH: He wasn’t in my chair, but my recollection is it was after the phone conversation with General Johnson where I went off to work with my contracting officer, retrieve the 15 percent letter, draft up a new version, get that done. I returned to the overall conference we were having, with KBR and other government people, and I noticed in attendance was the chief of ammunition contracting office. I found that peculiar.

And I asked Colonel Tim Considine, “Why is Mr. Laurel here when this isn’t his business?” Colonel Considine said, “Well, it is. You’re being replaced.” And that’s when I found out I was being replaced—when I walked into the room.

SEN. DORGAN: Was Mr. Considine somewhere in your line of command?

MR. SMITH: Colonel Considine at the time was a deputy to the commanding general who had some responsibilities for LOGCAP. My official reporting chain was up through a gentleman named William Turnis, who was the principal assistant responsible for contracting at the command. He was there at that time and confirmed that, yes, you’re being removed.

SEN. DORGAN: But, at that time you were being moved, your immediate superior didn’t have the courtesy to tell you that?

MR. SMITH: No.

SEN. DORGAN: You show up at a meeting and find out?

MR. SMITH: That’s correct.

SEN. DORGAN: And, tell me, why were you replaced, in effect taken off that contract—Was it the order of General Johnson?

MR. SMITH: Yes.

SEN. DORGAN: And, why do you think that General Johnson issued that order?

MR. SMITH: Again, I was given some explanations that varied over time. That, gee, it was in my best interest and I must be tired from all this travel and all this work. I was also told that you can’t get those contracts definitized, we have to get someone who can.

My basic understanding and putting it all together is that I was seen as a hindrance to getting the work done in the way that Gen. Johnson wanted it done. And, I was seen as a hindrance for that same thing by KBR.

SEN. DORGAN: So they demoted you for your own benefit? That's what they claimed?

MR. SMITH: Yes, to be clear, they moved me to another job that had the same grade, then they demoted me after that. I was always on a temporary fill at the same grade, and then they removed the temporary fill later.

SEN. DORGAN: I understand. So, General Johnson issued the order to dismiss you, in effect, and you believe that it's because you were raising questions?

MR. SMITH: That's what I was told.

SEN. DORGAN: And during this period of time, your contracting officer presented you with a letter implementing the 15 percent withhold, presented it to KBR. The next morning, she informed you that KBR personnel said that that decision would be overturned?

MR. SMITH: Yes. As I say, I wasn't at that meeting, but when she gave them the letter, they...

SEN. DORGAN: What do you think they meant by that?

MR. SMITH: I think they meant that they would go above our heads and that someone with a lot more authority than we had would tell us to turn it around, which is exactly what happened.

SEN. DORGAN: Did you think that was possible?

MR. SMITH: It's possible.

SEN. DORGAN: Is that the way the Army works?

MR. SMITH: Often. You know, on a contracting decision like that, General Johnson was officially the head of the contracting activity. He had contracting authority, as HCA, to make contracting decisions. He didn't do anything—that was within his purview to make that decision as the HCA.

I objected to it but at that time I did not see it as the kind of issue that was worth resigning over, moving out over. It was direction to continue the process of looking at the 15 percent withhold. So, my contracting officer agreed and we complied with that direction.

SEN. DORGAN: I don't mean to turn this into a lengthy discussion about General Johnson, but I'm more than a little miffed that this General came to the Congress and gave testimony that he would have known to be inaccurate or at least that the Pentagon knew to be inaccurate.

I would observe also that at another juncture that an issue I've been very interested in was the awarding of \$300 million in contracts to a company in Florida run by a 22-year-old, Mr. Diveroli, whose vice president was a 25-year-old massage therapist.

A 22-year-old CEO and a 25-year-old massage therapist running a company that had previously largely been a shell company through an unmarked door in South Beach got a several hundred million dollars in contract authority. That happened while General Jerome Johnson was at the helm at the sustainment command as well. It's interesting how many intersections we come to and find Mr. Johnson.

But, you're saying that you were the top contracting officer on LOGCAP III?

MR. SMITH: I had a position which managed LOGCAP III. Yes, I managed the LOGCAP contract.

SEN. DORGAN: And, the LOGCAP contract was how large when you were leaving it?

MR. SMITH: When I left, it was running at about \$5 billion in costs per year. There were about 130,000 civilians working LOGCAP task orders in theater. There were 130 different task orders under the contract.

SEN. DORGAN: So 130,000 people working on LOGCAP III. You're the contract officer for that LOGCAP contract. How many people worked with you to do the oversight?

MR SMITH: At my operation, at the time I left I had about 15 people working that program.

SEN. DORGAN: So, you began raising questions, internally, not externally, about the propriety of the billing you were receiving under this contract, or at least the payments you were making for services, or products rendered? You began raising those questions. And, at one point, you indicated that there was \$1 billion that you would not reimburse without substantial additional information, is that correct?

MR. SMITH: What I was involved with at that time is there was \$1 billion that I wouldn't recognize in negotiations to set the estimated cost for setting the fee. At that time, the question of recognizing those costs would be determined by a full audit of DCAA, when the costs were actually incurred.

The initial issue was recognizing those costs for the purposes of setting the fee. The ultimate issue was whether those costs would be allowed for payment at all.

SEN. DORGAN: You say that the dining facility costs were converted from a cost type contract of fixed price and the result of that conversion was that it protected KBR from any post contract audit which might have disallowed payments. Who would have made that judgment?

MR. SMITH: DCAA would perform the post-contract audit. DCAA had already indicated that these were the costs incurred by the poor subcontracting technique—the bad subcontracts, the excess billing for DFAC meals.

So it was pretty clear that the DCAA intended to issue a report that said the Army should declare these costs unreasonably incurred and not pay them.

And so that report would have come into the contracting people and we would have then followed that report—there was no reason not to—and requested, I would have requested, that if those costs had already been paid that the government recoup those costs.

SEN. DORGAN: But that did not happen, and in fact the contract was changed so that they were paid—the contract was changed so that there would not even be a future audit of the contract. Is that correct?

MR. SMITH: That is correct.

SEN. DORGAN: And I ask you, who do you think ordered that? That's a pretty big decision.

MR. SMITH: The first time I was aware of that I was, again I worked a year on LOGCAP IV, so I attended all LOGCAP program briefings and there was a briefing given by Mr. James Laurel, who was now the chief of field support contracting, my replacement, to the ultimate person was Ms. Tina Ballard at ASAALT, and he briefed that contract would be converted to firm fix price, and she concurred. Where Mr. Laurel, whether he had other direction to do that, or he decided to do that on his own, I do not know.

SEN. DORGAN: That's potentially a billion dollar decision.

MR. SMITH: Yes, well it was at least a \$200 million relief for KBR.

SEN. DORGAN: And a couple of quick final points before I call in Senator Whitehouse. You indicate the company submitted invoices, you're talking about KBR, for more trucks than could reasonably be used by the military.

MR. SMITH: We found a big problem. Now transportation was one of the toughest nuts, and KBR, to their credit, took on a very difficult mission. The routes were not secure, and so it was a hard mission to do.

At the beginning of the contract I kept getting calls from one star general at the time, a Gen. Vincent Boles who was in Kuwait, where they staged and managed the transportation mission as they moved stuff up to Baghdad and beyond.

And he said, “This doesn’t look right to me.” He said, “There are too many trucks, they’re in poor condition, they always have a lot of down trucks. And so they bought a lot more trucks than appear to be required to do this mission, they don’t maintain what they have and it just does not make sense as the proper way to do a transportation mission.”

Now we identified that to the DCMA administrative contracting officers, the auditors were looking at that. I myself called KBR—my PCL called KBR and said, “Hey we’ve got a problem with the transportation mission. We need you to take some action to correct this.” I do not know whether or not we really got corrective action on that one or not, but we identified a problem fairly early on at that stage in the transportation mission.

SEN. DORGAN: I can maybe help you in terms of why they needed a lot of trucks. We have had testimony before this committee by eye-witness accounts of trucks beside the road with a flat tire because they didn’t have the wrench to fix the tire. The truck was left to be torched because it doesn’t matter very much, because the taxpayers will pay for new trucks costs—it’s cost plus, whatever they spend they’re going to be reimbursed.

Maybe that’s what happened to some of the trucks, but one final point before I call on my colleague. It seems to me from what I have heard, the taxpayers have gotten fleeced badly in some of these contracts.

We should probably say, no doubt there are some good men and women over there working as contractors. No doubt Halliburton, KBR and dozens of other companies have done work that you can hold up to the light and say, “Aren’t we proud of this” and the answer is yes, no doubt about that.

But that’s not the point of auditing, and that’s not the point of trying to understand—does the taxpayer get value for what the taxpayer’s spending?

It just appears to me from what you have said and what others have said is that literally billions of dollars have been thrown down the drain here, and in many ways not just injuring the American taxpayer, but pulling the rug out from under our troops as well.

And I think that’s the point you were trying to make as a contract officer, from what I have heard, when you say, “We’re not going to pay this billion dollars, or whatever the amount is, because we don’t believe that there is substantiated cost to justify it.”

Give me your general impression of how, on these issues, on this contract, given what you’ve talked about with respect to General Johnson, given the fact that when you raise questions as an auditor, the top contract officer, you raised questions and you were

dismissed. Give me your impression of how well or how poorly you think you think the American public and the American taxpayer was served in this.

MR. SMITH: I think that when the change was made, and the obvious aim was to put more money back through KBR, that certainly it cost the American taxpayer additional funds. Again my estimate, just a back of the envelope, is a billion—DCAA at the time talked about 1.8 billion, I'm not sure about the exact amount.

My concern then is thus: wasted money. Money was wasted, money was sent to KBR, whether the Army was correct in the sense that the Army was scared KBR would to leave, I don't think that was the case.

The big problem of course I had with that, aside from the taxpayers, which are always in our mind when trying to do efficient contracting, was of course the troops. The opportunity cost of that money was something that the troops didn't get. So if a billion dollars went to KBR they didn't deserve, with a fixed budget to do operations in Iraq, Afghanistan and Kuwait, then that was a billion dollars that was not there to support troops in other ways, whether it was armor, whether it was Kevlar vests, whether it was—

Those were the things that obviously came to mind as, and you know, that's when, again, when I met with General Casey, along with a lot of other people, it was obviously on his mind, that every dollar he spent had an opportunity cost of something that the troops wouldn't get, and so that's why I was very concerned with the way this contract was handled.

SEN. DORGAN: Mr. Smith, thank you. Senator Whitehouse—

SEN. WHITEHOUSE: Thank you, Chairman. I thank you again for holding these hearings—it's really an astonishing series that you have led and Mr. Smith, thank you for your testimony.

I come at this from a lawyer's and prosecutor's background. I was a U.S. Attorney, I was Attorney General of my state, and in the time that I was a U.S. Attorney, one of the initiatives at the Department of Justice was healthcare fraud. And we looked pretty hard at healthcare fraud.

I've been on both sides as a private lawyer defending folks who are being investigated and as investigator and prosecutor, so I'm pretty sensitive to the power of the False Claims Act, and I'm wondering—

The stuff that we looked at was chicken feed compared to the things that we've heard described in these hearings, and yet I never hear any sign of a referral for prosecution, of the Department of Justice being involved. I never hear the false claims act invoked, which as you probably know is a civil remedy, but it provides up to triple damages, so it's a powerful weapon.

And in the course of your work, how did any of that figure into the calculations and into the process?

MR. SMITH: In our process, you know, I was relying on the contracting process—the management of a cost-type contract, the use of DCAA to analyze an audit cost, the willingness of the government to declare certain costs unreasonably incurred and that we weren't going to pay them. I thought that that was the biggest stick I had to try to get a more efficient contract run.

I know that there is, under I think the U.S. Attorney, operating out of Rock Island, has jurisdiction over all of the cases concerned with the LOGCAP contract. There are attorneys working there, I met with them on two occasions to give them background really as just background briefings on what the contract is about, how it operates, etc.

Not to delve into any cases, I've watched just in the newspapers as they have picked up various fraud cases where a KBR subcontract manager took a kickback or so, and I notice a number of those have been prosecuted, but those are the only things I'm aware of that have come out of that. I'm not aware of any other filings, but I wouldn't be.

SEN. WHITEHOUSE: And who is this RCI holding company that came in to replace you? I'd never heard of them before—it's not one of the major accounting firms. Do you know who they are?

MR. SMITH: I don't think they're an accounting firm at all, which was another one of my puzzlements, when they...

SEN. WHITEHOUSE: Who are they?

MR. SMITH: They were a consulting firm, as much as I knew and I didn't know anything about them. We were directed by General Johnson to hire them initially to do some kind of back office work for LOGCAP, and a lot of government is hiring, as we're starved for our own resources. Then it was his decision that he would use them to do this kind of cost analysis, heading towards these negotiations of definitizations and essentially displace DCAA in that process.

Again by that time I had been moved out, and I found this extremely puzzling, I had never seen anything like that in 31 years. DCAA was our auditors, we had our own price analysts and technical people who could look at other parts of it. I've been involved in should-cost operations, I've been involved in pricing negotiations and never have I seen that done.

I did not know RCI at all. I noted when they were bought out by SERCO, and now SERCO has won an award as a planning contractor on the LOGCAP program, and so I assume it was mainly done by what was the RCI part that they bought. Other than that I do not know anything about this firm.

SEN. WHITEHOUSE: Okay. I have to go to another hearing, so let me just close. I don't know what it means coming from me, but I'm in government now, so for what it's worth, let me apologize to you for the way that your 31-year career was brought to an end over this.

In the course of the hearings that Senator Dorgan has held, we have heard from people who were marched out of meetings and taken to closed rooms and were held until they were taken directly to Baghdad Airport and put on planes and taken out of the country when they had objected to contractor behavior.

We've heard from people who were taken and put in jail tents when they complained about contractor behavior. We have heard of people who were escorted out of meetings by security personnel, taken out of their offices by security personnel, in some cases armed security personnel and usually taken to the airport and flown out of town.

The indications are that there was a culture in which crossing the corporation, particularly the big ones, was not tolerated, and anybody who raised any dissent to anything they did was literally, was essentially frog marched to the plane and taken out of town to shut them up. So, I'm very sorry that this happened to you after 31 years. At least you didn't have to spend time in a jail tent, or being taken out by armed escort...

MR. SMITH: No.

SEN. WHITEHOUSE: But all of it is wrong, and I'm sorry that a part of it should have caused what by all accounts is a distinguished 31-year career to end on a sour, a particularly sour, note and I appreciate your service.

MR. SMITH: Thank you very much.

SEN. DORGAN: Senator Whitehouse, thank you very much. Senator Klobuchar—

SEN. KLOBUCHAR: Thank you very much Mr. Chairman for holding this important hearing. And Mr. Smith I would too like to commend you for your 31 years of service and for your reported efforts to demand some kind of accountability from KBR.

I'd also like to thank you for coming forward, for uncovering this negligence. And one of the things that these hearings, as Senator Whitehouse noted, that we've learned is that this hurts the taxpayers, which I think automatically people understand but it also hurts our soldiers.

We had a story in the last hearing of people who were working for contractors that were actually stealing the ice that the soldiers would use to keep them cool, and putting it out on the black market. And I think if anything, when you think of how hot it is in Iraq right now, brings home the fact that this doesn't just hurt the taxpayers, it also hurts our soldiers—the brave men and women serving our country. So I thank you for coming forward.

I wanted to ask you just a bit about what it was like before this war and this administration, because you were involved in overseeing contracts for the Army for 31 years before retiring, is that right?

MR. SMITH: That is correct.

SEN. KLOBUCHAR: And prior to the war in Iraq, did you encounter comparable incidences of this magnitude—of contractors attempting to bill the Army for what you believed were unsupported charges, as was the case with KBR?

MR. SMITH: Not anything like this at all. I was able to work in a lot of contracting issues where we use competition as the way to ensure that we got fair and reasonable bids out of contractors engaged in some sole-source negotiated contracts, but again when the process worked, a contractor had a good accounting system, gave us proposals, the DCAA could do their auditing, our technical people could look at... I always felt we were able to arrive at a fair and reasonable price for the products we received.

SEN. KLOBUCHAR: Was there a difference in the way in which the Army conducted oversight in the last, say, seven to eight years, than there was before?

MR. SMITH: You know, I have not seen any major change, except that there has been some move in oversight to, as I think you're all aware, reduce the number of oversight people to rely on a bit more contractor self-reporting—a bit more contractor self-management of oversight. I think that that's one of the things that hurt us in dealing with this because a lot of that oversight Defense Contract Management Agency would provide, and when you've had reductions in your normal workload support, when you take on something like this, you can be swamped completely.

SEN. KLOBUCHAR: And do you believe that Army officials were, say, receiving directions from the Pentagon to say fully pay the contracts, and things like that?

MR. SMITH: I do not know—I just I saw the facts on the ground that we changed course and the direction was to pay much, much more to this contractor.

SEN. KLOBUCHAR: I mentioned before the effect it had on service members and on those in the field. Do you have any examples of that, when you have this kind of blatant abuse of taxpayers' money?

MR. SMITH: You know, I have a hard time saying what those effects were. In general, the contractor was able to provide the support that the troops needed under our contract, but in what I thought was an inefficient and at times ineffective manner. Again my main concern was, and here I do not know what the opportunity cost of the excess funds paid under this contract, what did it cost the soldiers?

And that the military would have to tell you what our priority list is for the eight or some odd billion we had to run that war and what we could not accomplish when we ran out of the funds. So I was well aware that funds management was a critical issue.

At the end of every fiscal year, we were moving funds everywhere trying to find available funds to fund the next thing on the priority list that the combatant commanders needed. So I know it was an extreme operational issue to get things funded that were on those priority lists. But exactly what we cost by these excess funds, I don't know.

SEN. KLOBUCHAR: Well, when we look at the amount of money that was at hand here, what was it that you think it was?

MR. SMITH: I think it was in billion dollar range. That's the number I've used. And I've seen much higher estimates.

SEN. KLOBUCHAR: That would buy a lot of equipment, I'd think.

MR. SMITH: That would buy a lot of equipment.

SEN. KLOBUCHAR: The reason I'm asking is, I know the Army's justification for reversing your decision to hold up the payments because of the questionable charges was that it would have eroded basic services to the troops, and that KBR actually threatened to reduce payments to subcontractors if the Army blocked the full payment. Do you believe it was a reasonable position for the Army to take?

MR. SMITH: One, I do not think that was a reasonable position for the Army to take. KBR had a contract. KBR was contractually obligated to provide those services to us. We were in turn reimbursing them for the cost.

The second part of that particular one, the 15 percent, is when we put together the 15 percent letter, we had asked KBR for impacts on them. And we would've been willing to listen to KBR tell us that if you divide up our subcontracts costs, which have to be paid immediately, and if we have the 15 percent withhold, we will have a problem paying those immediately.

I would've been amenable to saying, "Okay, maybe I can carve out a different way of handling subcontract costs." When we issued the letter, we thought that KBR understood what we were doing, had given us all the impacts, that those had been briefed up and down that everyone was in agreement that this was the way to do.

Now maybe they thought that we would never actually execute this letter, but I was always willing to try and work for a solution. But basically, they were contractually obligated to provide the services and certainly in the back of my mind, should that ever happen, the Army has ways of taking over those subcontracts, if KBR resigns on their business.

SEN. KLOBUCHAR: Exactly. And what bothered me about this is this idea that KBR, or any other contractor, could threaten to cut off essential services unless they get their full payment.

Which begs the question, what leverage does the United States government and the military have to prevent this from happening? The problem with this increasing reliance on private contractors—many problems—but one of them is that somehow it appears that it leaves us in the position, according to the military, of being at their mercy.

So that if you cut them off, they're going to threaten to stop providing services. Do you see this as an issue?

MR. SMITH: I see this as an issue. Again, in this particular instance I did not think that the contractor was actually going to cease performance because of the financial reasons. I think the Army needs to take a close look that maybe other contractors might, or as I said in my testimony, that force protection issues, I think could be a driver if we are involved in the kind of operations as Iraq, especially when you look at the transportation issue, where KBR did suffer significant losses of their personnel on transportation missions.

At one point, they had a major incident and KBR did exactly what the Army would've done. They stood down for a day, they evaluated force protection and demanded more. So I think there are risks on a couple of fronts of contractors leaving the battlefield.

And yes, that's why I suggest, I think the whole issue of using contractors needs a serious re-evaluation at this point in time and just broadly on those issues.

SEN. KLOBUCHAR: And then my last question here is, after your removal from overseeing the Army's KBR contract in 2004, are you aware of any other attempts by Army officials to demand greater accountability from KBR for these contracts?

MR. SMITH: I've not seen it.

SEN. KLOBUCHAR: Thank you very much, Mr. Smith.

MR. SMITH: You're welcome.

SEN. DORGAN: Mr. Smith, let me ask about the contract officer who worked under you, who was also dismissed. Can you tell me about the circumstances of that dismissal?

MR. SMITH: That contracting officer was one of the finest people I've ever worked with. My understanding of the way that she was moved out of that was that she was told that she would have to deploy to Iraq for a year and she said that family conditions would not allow her to do so. So she was told that that made her ineligible to keep that job and she was replaced by a person who to my knowledge, never deployed to Iraq.

SEN. DORGAN: To your knowledge, does the Pentagon's audit agency have less access to KBR information than a private contractor would have, for example the private contractor that was hired?

MR. SMITH: My understanding, again this is some information that I must admit I have second hand, but my understanding is DCAA is now finding it a problem to deal with both KBR and SERCO—that a lot of information that KBR is not releasing to DCAA, but telling them that it is available through this SERCO company and SERCO is difficult to deal with.

Again that's my understanding. I think that, you know, DCAA would be in a better position to discuss the issues they're having in dealing with this contract right now and I would hope you would get the straight information from them.

SEN. DORGAN: Well I think it's almost unbelievable that the Pentagon is hiring other contractors for oversight responsibilities. We've had cases before and hearings that I've held, where besides from the fact that it's inadvisable, I think the Pentagon has a responsibility for oversight.

They're the ones that are the stewards of the taxpayers funds here, but we've seen circumstances where they've actually hired contractors to oversee another contractor, in which those two contractors have other contracting relationships in other countries on other contracts. It is unbelievable to me that they are doing that.

MR. SMITH: Again, I found that relationship unprecedented in my 31 years.

SEN. DORGAN: I mentioned when we started General Johnson's testimony before the Senate Armed Services Committee that I've been particularly upset by, and I sent to Secretary Gates asking for an inquiry. Are you familiar with the testimony General Johnson gave to the Senate Armed Services Committee?

MR. SMITH: Yes, I read through that transcript.

SEN. DORGAN: Give me your assessment of the accuracy of the statement given to the United States Congress by General Johnson.

MR. SMITH: Well, I was puzzled by some of the answers. They did not import with my knowledge of the situation. Certainly the containerized housing issue that the Army formally corrected the testimony on stood out. I was positive those payments had actually been made.

There were briefings in which that was discussed, during those monthly briefings where Ms. Ballard and often General Johnson participated in that containerized housing was discussed.

The issue of water, it was firmly my belief that that contract required KBR to manage and supply potable and non-potable water. They were totally responsible for the water at our....

SEN. DORGAN: Would it have been reasonable for us to believe that General Johnson knew that or should've known that?

MR. SMITH: I believe he should've known that. He was the head of the contracting agency, so he had contractual responsibilities. The gentleman sitting behind him, Mr. Warroll, was managing those contracts. Those issues were briefed and the contract was very clear.

And the problem, one of the problems, was that KBR could not get ROWPU units set up so the military was taking the water out of the river and actually running it through the filtration process, but that was to make up for a failure of KBR to comply with the contract.

And that didn't relieve them of their overall responsibility to ensure that that water was purified to the correct level and went through the entire system. Whether it came from an Army unit or their unit or a subcontractor unit, they still had the responsibility for the water, contractually.

SEN. DORGAN: Do you believe General Johnson's testimony on that point was accurate or inaccurate?

MR. SMITH: He said, both he and Mr. Bolton said, that KBR was not responsible because the Army was involved. And that to me did not seem to be a correct interpretation of the contract.

SEN. DORGAN: General Johnson also said that KBR had received high award fee scores because they had good business systems. Is that an accurate representation before the Congress?

MR. SMITH: To my understanding, no, on two counts. One, the award fee criteria was much, much more than business system. It included actual performance, timeliness, performance cost control—it was not just business systems. And at that time especially during the first award fee period, DCAA continually issued audits that showed that those systems were not acceptable.

Their accounting system was not acceptable, their subcontracting system was not acceptable, and their estimating system were not acceptable. So the business systems were not acceptable at that time and we had DCAA audits coming to us on a regular basis.

That was one of the things that I was involved in for months and months in my dealings with KBR. And I was trying to mediate between DCAA and KBR. How do we get this

process rolling so your systems can get approved? It was not my intent to just punish the contractor, but to work with DCAA and the contractor to get plans of action, to figure out how we would get those things approved.

But those business systems were not approved and working systems. So I had two problems with that statement. One, there was much, much more than business systems that justified that award fee board ratings and two the business systems were bad at that time.

SEN. DORGAN: So the testimony, with respect to that may not have been accurate either?

MR. SMITH: Yeah, it may not have been.

SEN. DORGAN: Were you familiar with the Bunnatine Greenhouse situation? And were you familiar with it while you were working on LOGCAP III?

MR. SMITH: Yes. I don't remember the exact timing, but I knew the issues involved. We had a minor part in the Restore Iraqi Oil process at LOGCAP and it was transferred from us to the Corps of Engineers when I frankly told the Corps that we would not award the execution contract on that unless they gave us...well it was wasn't the Corps, I told DOD, that we would not award the execution phase of Restore Iraqi Oil unless someone at a very high level justified it.

I said they could use LOGCAP as the contractual vehicle, but it was not part of the LOGCAP scope of work, there was no reason in particular that I saw to go sole-source to KBR to do that.

So if they wanted to justify it so that we could use that vehicle for them, I could do it, but then they moved it to the court.

SEN. DORGAN: I think there are a lot of good men and women who work in these areas, yourself included, and Senator Whitehouse I think said it—thanks for your career, thanks for your 31 years. You were treated shabbily I think, but I'm wondering today if there are contract officers out there who probably think given my situation, give the years I've got, given my family situation, I can't afford to rock the boat and I sure can't afford to lose my job.

And they took a look at Bunnatine Greenhouse, the top civilian contract official at the Army Corps of Engineers. Take a look at you, 31 years in an elite position in the LOGCAP III, \$5 billion a year contract, and they see that you raised basic, serious, thoughtful questions and what happens to you? You lose your job. You get demoted.

Do you think that that sends a message to some other contract officials out there that you know what, I'm going to keep my head down and try and do my job, but I'm not going to

rock a lot of boats here because I've got a message to what happened to Charles Smith and Bunnatine Greenhouse.

MR. SMITH: I think that it absolutely sends that message. And for a lot of our good employees, especially those in the old retirement system, you know, they have way too much invested to risk that at this point in time.

The other message it sends for the younger people that are coming in under the new, somewhat portable retirement system, is maybe this is not the place you want to work, especially if you have some integrity, intelligence and want to do the best job you possibly can. It might cause someone like that to think twice about supporting the Army.

SEN. DORGAN: That is a very sad commentary and I regret to hear it, but I understand it. When Secretary Gates was nominated by President Bush, he came to my office and we had a long talk and in that visit I talked to him about contracting, I talked to him about the Bunnatine Greenhouse case, talked to him about a range of other things that I have learned about in hearings and he promised me that he intended to be vigorous and look into all of these things.

I admire Secretary Gates. I have no reason to be critical of him except to say this—I've seen precious little activity out of the Pentagon that anything has changed very much. Maybe things are going on that I don't understand.

When I asked for an investigation of what General Johnson had testified before the Congress, I got a letter back from Secretary Gates saying that such an inquiry was being conducted. I told Secretary Gates when he was the nominee, I said you know, if I read this stuff and was coming in to run that agency, I would be furious and embarrassed and damn determined to do something about it. I mean I would shake the place up if this sort of thing is happening.

And he indicated to me in a private meeting that he felt as strongly as I did about what is happening. But again, I wait for information to come out of the Pentagon that suggests there is some accountability here and some responsibility for these issues.

I know we are at war and I know that in many ways requires a different level of activity, much more aggressive, sometimes things get short-circuited or shortcuts. But I still think the body and weight of evidence that is happening in contracting is almost shameful.

And let me conclude by saying this: I have for some time attempted to get created a special committee in the Congress formed after the Truman Committee that existed from 1940 to 1947.

The Truman Committee was bipartisan, established under Harry Truman's chairmanship. They did 60—six zero—hearings a year for seven years going after waste, fraud and abuse. They were started with \$15,000, and it is estimated they save the American taxpayer \$15 billion—those are 1940s dollars.

And this Congress has a responsibility to do the identical approach. We've always during war time had special committees to shine the spotlight on inquiries. How's this money being spent? How are the soldiers being served or disserved?

So you know, we have a lot to do internally in this Congress. We're not without fault and some criticism. But the purpose of this committee is to at least turn as much attention as we can to what's happening.

When I read about you, Mr. Smith, and what had happened to you, to injure apparently what is by all accounts a wonderful 31 year career, I felt as angry as I've felt when I've seen things on other occasions that represent what I think is a disservice to a good public servant.

So let me finally, as I conclude, let me say we are continuing to hold hearings, we invite the Halliburton Corporation or others who would be the subject of hearings to come forward.

We've done that by formal letter, in fact, the CEO of Halliburton wrote an op-ed piece in *The Washington Post* some two or three years ago complaining that he had not been heard by those who are holding hearings so I immediately contacted him and said by all means, we've invited you but you've not come. So by all means come, we want to hear you. But they have not wanted to do that.

Let me thank you for traveling from Davenport, Iowa to share your recollections and thoughts and observations about this issue. You're someone that I think our government should be proud of and our country should be proud of and I appreciate, I'm sure many others do to, your 31 years with the contracting offices of the U.S. Army.

This hearing is adjourned.