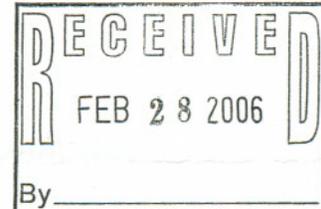




One Hundred Ninth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

February 28, 2006

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528



Dear Secretary Chertoff:

The Department of Homeland Security has awarded a 5-year contract valued at \$385 million to Kellogg, Brown and Root (KBR). This contract calls for the construction of detention facilities for persons arrested for entering the country illegally. The contract permits KBR to provide temporary processing, detention, and deportation facilities in the event of an "immigration emergency." According to the contract, these services could also include supplying logistical support, performing emergency repairs, and providing construction services for Immigration and Customs Enforcement (ICE) *in the event of a natural disaster*. Further, in carrying out the terms of this contract, KBR may be charged with expanding existing ICE Detention and Removal Operation program facilities.

From 2000 to 2005, KBR had an agreement with ICE for essentially the same services. The company earned approximately \$6 million for services during the five-year contract period. While the new contract was competitively bid, it appears that as the current contractor and sole bidder, KBR may have had an unfair advantage in the bidding process. Even though this contract was not a sole source award, we are concerned that under the circumstances, other businesses which are qualified to perform the work called for under this contract may have not had the kind of opportunity to participate in the solicitation process that is the hallmark of "full and fair" competition under Federal procurement regulations.

The award of this contract is particularly disturbing because the President's budget submission for FY2007 completely eliminates State Criminal Alien Assistance program (SCAAP) funding which is available to states and localities to assist with costs associated with incarcerating undocumented criminal aliens. Without the \$405 million available to states through this program, the apparent expansion in detention and removal operations anticipated under the KBR contract are unlikely to occur.

Because press reports have raised serious questions about the nature of this award, we are writing to seek clarification of certain aspects of this contract:

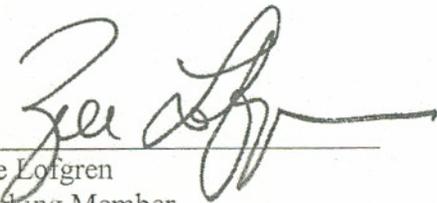
- 1) Since KBR has admitted to overcharging the federal government for goods and services during the last three years, what was the rationale for allowing them to continue as the contractor?
- 2) Please provide a clear and concise narrative of the definition of an "immigration emergency" as used in this contract and whether any entity outside of the Department of Homeland Security would be empowered to declare such an "immigration emergency?"
- 3) The amount that can be potentially paid to KBR under the new contract is more than 50 times the amount paid under the previous contract. Please explain what circumstances justify such an increase in the potential payment under this new contract?
- 4) Given the number of firms involved with construction and logistics, it seems unusual that KBR was the only bidder. Please provide details on the issuance and closing dates of the Request for Proposal, the bid and performance bonds required under the solicitation, a copy of the RFP, a copy of the KBR submission and a copy of the final contract.
- 5) Please provide any and all information on KBR's subcontracting plan.
- 6) Please provide all correspondence between KBR and the contracting officer or other Department official regarding this contract.
- 7) What role did the Army or the Army Corps of Engineers play in developing the solicitation, approving the bids or recommending the award of this contract?
- 8) What official within the Department will be responsible for overseeing payments, monitoring performance, and ensuring compliance with the contract requirements?

Thank you for your attention to this matter. If you require any additional information, please contact Jessica Herrera-Flanigan, Democratic Staff Director, at 202-226-2616.

Sincerely,



Bennie G. Thompson
Ranking Member
Committee on Homeland Security



Zoe Lofgren
Ranking Member
Subcommittee on Intelligence,
Information Sharing and Terrorism
Risk Assessment