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3015 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3015

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ACQUISITION,  
TECHNOLOGY,  
AND LOGISTICS

The Honorable Earl Blumenauer  
U.S. House of Representatives  
Washington, DC 20515-3703

Dear Representative Blumenauer,

Thank you for your September 23, 2010 letter to the Secretary of Defense requesting information regarding the 2003 Restore Iraq Oil (RIO) contract indemnification provision and a list of contractors from all procuring offices that have been granted indemnification. I am responding on his behalf.

To support your inquiry, I issued a data call to the Military Departments and Other Defense Agencies requesting a list of contractors granted indemnification under PL 85-804, a list of lawsuits filed as a result of contractor actions, and the amount of money the Federal government has paid out as a result of indemnity agreements with the contractors. The data call also requested a list of contracts entered into under the authority of the Defense Appropriations Act (PL 108-87, section 8091(b)), since 2004. I regret the delay in responding. The Military Departments conducted an extensive data call to include their worldwide contracting activities. I am providing you with the information I received. I will address your questions in the order listed in your letter.

Regarding your request for the declassification of the terms of indemnification in the Department's RIO contract with Kellogg, Brown, and Root, it remains classified. In addition, the underlying contract is involved in numerous cases currently in litigation. For these reasons, I am unable to provide you with a copy of the information. As an alternative, however, I can make the document available for your review, either here or in your offices.

Regarding your request for a list of contractors granted indemnification under the authority in PL 85-804, I am enclosing the Army, Air Force, Navy, United States Transportation Command (USTRANSCOM), DTRA, DISA, and Other Defense Agencies inputs from the data call. The USTRANSCOM commander's memorandum, also enclosed, identified their contracts with indemnification as specifically for Civil Reserve Air Fleet (CRAF) support that fulfills DoD airlift requirements in emergencies when airlift demands exceed military aircraft capability.

All responding organizations submitted a negative response for your third request on the usage of the Defense Appropriations Act authority.

I trust this information is helpful. Thank you for your support of our warfighters.

Frank Kendall

Enclosures:  
As stated