

Washington, DC – Congressman Earl Blumenauer (D-Ore) today sent a letter to Secretary of Defense Robert Gates on the heels of news accounts that war contractor KBR may not be held responsible even if it is found to have exposed the Oregon Army National Guard to cancer-causing chemicals in Iraq. The classified terms of KBR's contract with the Army may have fully transferred liability to the Department of Defense, making the federal government and taxpayers responsible for the contractor's alleged negligent actions.

The letter requests that Secretary Gates address this particular case, as well as general concerns about how defense contractors are being held accountable for their operations.

“The Department of Defense must immediately address the disturbing accounts of war contractor KBR getting special legal protections, even if they are found to have knowingly jeopardized the lives of Oregon soldiers,” **said Congressman Blumenauer**. “There should be no special carveout for war contractors who risk the lives of soldiers or civilians, and U.S taxpayers should not be on the hook for their negligence. Americans deserve to know the truth about which and how many contractors have been given special legal reprieve. I expect the Department of Defense to explain how we are holding contractors accountable despite contracts that seem to free them of any legal consequences.”

The letter Congressman Blumenauer sent to Secretary Gates follows:

July 14, 2010

Dear Secretary Gates,

I am writing with serious concerns about the accountability for defense contractors operating abroad. A recent article in *The Oregonian* brings new attention to the legal safe haven in which some, if not all, defense contractors in contingency operations appear to operate. In my state, Oregon Army National Guard veterans have filed suit against KBR for knowingly exposing servicemen and women to hexavalent chromium, a highly toxic and cancer-causing compound. KBR's claims of indemnification via the classified terms of its contract could leave the Army – and by extension the U.S. taxpayer – responsible for all lawsuits, healthcare costs, and court fees resulting from the contractor's own alleged negligence.

Contractors that put our servicemen and women, as well as innocent civilians, at risk should be held accountable. I am deeply concerned that the Department's contracts appear to leave the U.S. service members doubly exposed: first to the unsafe environment created by these contractors, and second as taxpayers potentially paying for the legal defense of the very contractors causing harm. I respectfully request an immediate response to the following:

1. In the case of KBR's involvement with Oregon National Guard exposure to hexavalent chromium in Iraq, please clarify if KBR is asserting indemnification through the terms of its contract with the Department. If so, within 5 days please provide my office with the terms of indemnification granted in this contract and any other contract with KBR in a contingency operation.
2. Within 5 days, please provide my office with a copy of the Department's original contract with KBR and any modifications thereto under which the work related to the hexavalent chromium exposure, highlighting the provisions obligating the government to indemnify KBR actions. Also within 5 days please provide my office with the terms of any other indemnification agreements with KBR in contingency operations.
3. Within 10 days, please provide my office with a list of contractors that have been granted similar indemnification for services provided in a contingency operation since 2001, the list of lawsuits filed as a result of contractor actions, and the amount of taxpayer money the Federal government has paid out as a result of indemnity agreements with contractors in Iraq and Afghanistan or otherwise.
4. Within 10 days, please provide an answer as to whether Congress was notified when the Department entered into contracts that burdened U.S. taxpayers with the risk and legal responsibility for the actions of private contractors. Specifically, did the Department provide any notice to Congress of these indemnification agreements? If so, when, and to what Committees?

5. And perhaps most importantly, within 10 days please provide an explanation of what steps the Department is taking to minimize government and taxpayer liability in future instances of contractors acting outside the scope of their contracts or putting U.S. personnel or civilians at risk. Further, what steps is the Department taking to ensure that Congress is aware of current and future obligations under similar indemnity agreements?

I look forward to a thorough and prompt response to my inquiry.

Sincerely,

A handwritten signature in black ink on a light beige background. The signature is cursive and reads "Earl Blumenauer".

EARL BLUMENAUER

Member of Congress