



# H.R. \_\_\_\_\_, ACCOUNTABILITY FOR DEFENSE CONTRACTORS ACT OF 2010

Congressman Earl Blumenauer ■ Third District of Oregon ■ [www.blumenauer.house.gov](http://www.blumenauer.house.gov)

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*"Our war contracting process does too little to ensure that contractors act with the best interests of our troops and taxpayers in mind. And we're going to change that." - Earl Blumenauer*

## **Background**

Congressman Blumenauer initiated a major inquiry into the defense contracting process in response to an ongoing lawsuit filed by 26 Oregon National Guard veterans against the defense contractor KBR. Formerly a Halliburton subsidiary, KBR has been the target of other allegations including installing faulty shower wiring on bases that caused fatal electrocutions, burning toxic chemicals in open pits on bases, fraud, rape, and human trafficking.

The Oregon veterans allege that KBR's negligence resulted in hexavalent chromium poisoning at a KBR facility in Iraq. As the case proceeded, KBR revealed the existence of a classified indemnification contract clause that could shift the cost of unlimited damages, health costs and court fees onto the Department of Defense – and by extension the U.S. taxpayers.

## **Inquiry Ongoing**

Congressman Blumenauer immediately initiated an inquiry into the Defense Department's contracting process, requesting the classified KBR indemnification language and details of the use of this authority in other contracts. A brief timeline follows:

- July 14, 2010 – Blumenauer requests Defense Secretary Gates to provide the KBR contract, the classified indemnification language, an accounting of similar contracts, and the authority used.
- July 26, 2010 – Department of Veterans Affairs announces a new Medical Surveillance Program to monitor service members suspected of hexavalent chromium exposure in Iraq.
- August 31, 2010 – Army Secretary McHugh responds to Blumenauer's inquiry, revealing that the KBR indemnification is unique to the Army.
- September 24, 2010 – Blumenauer again requests Secretary Gates provide the classified KBR indemnification language, and an accounting of indemnification provided through a second type of open-ended authority.

## **The Legislation**

Blumenauer's legislation will reign in the secretive war contracting process and deny negligent contractors government bail-outs. This bill will restore basic and common-sense safeguards to the war contracting process by increasing the transparency of contracts and the accountability of contractors. Specifically, the Blumenauer legislation will:

- **Require Congressional notification** in all cases where the Department of Defense accepts liability on behalf of a contractor in excess of \$1,000,000.
- **Close the "negligence loophole,"** by revoking indemnification for harm caused by a defense contractor's own gross negligence or misconduct.
- **Prevent "indemnification-creep"** by clarifying that a defense contractor is only indemnified for the hazards named in the contract, and must report additional hazards immediately.

*For more information about these efforts, please contact Stephanie Cappa in Rep. Blumenauer's DC office at (202) 225-4811.*