

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
ROCK ISLAND DIVISION

FILED

MAR 22 2011

CLERK OF THE COURT
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA, EX
REL. [UNDER SEAL]

Plaintiff,

v.

[UNDER SEAL]

Defendants.

Civil Action No:

11-4022

COMPLAINT

FILED IN CAMERA AND UNDER SEAL

DO NOT ENTER IN PACER

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
ROCK ISLAND DIVISION**

UNITED STATES OF AMERICA, EX
REL. GEOFFREY HOWARD AND
ZELLA HEMPHILL,

Plaintiff,

v.

KBR, INC. and KELLOGG BROWN &
ROOT SERVICES, INC.

Defendants.

Civil Action No:

**COMPLAINT FOR VIOLATION OF
FALSE CLAIMS ACT, 31 U.S.C.
§ 3729 ET SEQ.**

**FILED IN CAMERA AND UNDER
SEAL PURSUANT TO 31 U.S.C.
§ 3730(b)(2)**

DO NOT ENTER IN PACER

COMPLAINT

Plaintiffs Geoffrey Howard and Zella Hemphill, through their attorneys, on behalf of the United States of America, allege as follows:

1. This is an action to recover damages and civil penalties on behalf of the United States of America arising from false statements and claims made or caused to be made by Defendants KBR, Inc. and Kellogg Brown & Root Services, Inc. (collectively “KBR”) to the United States in violation of the False Claims Act, 31 U.S.C. §§ 3729–33 (the “FCA”). At issue are false claims and statements submitted by Defendants to the Defense Contract Management Agency (“DCMA”) and the United States Department of Defense for payment pursuant to a multi-billion dollar contract for the provision of logistical services in support of the military effort in Iraq and Afghanistan.

2. The FCA prohibits the submission of false or fraudulent claims for payment to the United States or the making of false statements for the purpose of causing a false claim to be

paid. The FCA provides that any person who knowingly submits, or causes to be submitted, false or fraudulent claims to the government for payment or approval is liable for a civil penalty of up to \$11,000 for each claim, plus three times the amount of damages sustained by the government. The Act empowers persons with information regarding false or fraudulent claims made to the government, “relators,” to bring an action on behalf of the United States and to share in any recovery. The complaint must be filed under seal for 60 days (without service on the defendant during that time) to allow the government time to conduct its own investigation and to determine whether to join the action.

3. Pursuant to the Act, plaintiffs/Relators Geoffrey Howard and Zella Hemphill seek to recover on behalf of the United States damages and civil penalties arising from false and improper claims for payment that Defendants submitted, or caused to be submitted, to the Defense Contract Management Agency (“DCMA”) and the United States Department of Defense, in connection with a multi-billion contract, known as LOGCAP III, to provide logistical support to U.S. troops in Iraq and Afghanistan.

4. KBR violated the FCA by purchasing hundreds of millions of dollars worth of materials under the LOGCAP III contract that were duplicative for the performance of its work. These wasteful purchases filled KBR’s storerooms in Iraq and Afghanistan with excess materials. By June 2009, KBR had over \$600 million in idle government property in its warehouses. KBR built and sustained this stockpile of excess materials through widespread fraud in its ordering, use, and disposition of government property. First, KBR orders new materials, for which it charges the government, instead of using materials that it already has on hand and available, through several fraudulent practices, including:

- Improperly keeping materials in virtual “receiving” storerooms from which they are unavailable for cross leveling;
- Improperly “reserving” materials for specific uses that have expired or never existed, again to prevent cross-leveling; and
- Returning supposedly excess materials to the government without checking whether it has a current need for them.

5. Through this course of fraud, KBR has billed the government for thousands of purchases of materials it did not need to buy. Accordingly, the government has paid KBR twice or more for goods under the LOGCAP contract, including hundreds of millions of dollars in idle materials and equipment in Iraq and Afghanistan that nobody needs.

I. PARTIES

6. The United States of America, the real party in interest in this case, entered into the LOGCAP III contract and various task orders thereunder (as described below) with Defendants. The United States Army Field Support Command (“AFSC”), located in Rock Island, Illinois, awarded and issued the LOGCAP III prime contract. AFSC and its successor, the United States Army Sustainment Command, also located in Rock Island, bear or bore responsibility for administering that prime contract, defined the United States’ needs under that contract, and issued task orders pursuant to that contract.

7. Relator Geoffrey Howard is a former employee of Service Employees International, Inc. (“SEIU”), which is wholly owned by KBR through two subsidiaries, KBR Group Holdings, LLC and KBR Holdings, LLC.

8. Mr. Howard joined KBR’s LOGCAP project on July 19, 2007, as a data and system analyst. His first assignment was to work as a Desktop Analyst for KBR’s IT Department at the Al-Asad Airbase in Iraq, known as site B-1 within KBR. He soon relocated to

KBR site B-9, at Habbaniyah Airbase, where he stayed until March 2008. Mr. Howard's job was to work as an IT technician and to help implement KBR's new property management system. Mr. Howard later transferred to a position with KBR's Support Office in Kuwait ("KSO") on March 16, 2008, where he prepared reports on KBR's materials usage. In the course of this assignment, Mr. Howard discovered hundreds of millions of dollars in materials in idle government property. Mr. Howard resigned under pressure from KBR on August 2, 2009 due to his complaints about excessive ordering and underutilization of government property under the LOGCAP III contract. Mr. Howard resides in Langenberg, Germany.

9. Relator Zella Hemphill is an employee of SEII. Ms. Hemphill joined KBR in 2004 as a LOGCAP III recruiter in its Human Resources Department. She was deployed to the LOGCAP III project on July 27, 2005 to work as an Administrative Specialist in Baghdad, Iraq. Ms. Hemphill was subsequently transferred to Tikrit, Iraq and Kirkuk, Iraq, where her assignments were to manage KBR's government property. Like Mr. Howard, she discovered large problems in how KBR was ordering, using, and accounting for government property. Ms. Hemphill was transferred to KBR's newly-created Distribution Management Center ("DMC") in KBR's Kuwait Support Office ("KSO") in May 2008 and promoted there to Senior Materials Control Specialist in June 2008. Ms. Hemphill's job at the DMC is to facilitate usage of KBR's excess government property by matching internal demand for materials with available supplies in KBR storerooms, a process known as cross-leveling. Ms. Hemphill worked closely with Mr. Howard to increase KBR's cross-leveling and correspondingly decrease duplicative purchasing. As described below, KBR rejected their efforts to reduce waste. Ms. Hemphill is a resident of Houston, Texas.

10. Defendant KBR, Inc. is a global engineering and construction company incorporated in Delaware with corporate headquarters in Houston, Texas and North American offices located at 2451 Crystal Drive, Arlington, VA 22202. It is the world's largest defense services provider, with approximately \$10 billion per year in sales, the largest contractor for the United States Army, and the largest supplier of U.S. private contractors in Iraq. The LOGCAP III contract at issue in this case is the largest single contract supporting the U.S. effort in Iraq.

11. Defendant Kellogg Brown & Root Services, Inc. is a Delaware corporation with its principal place of business in Houston, Texas. It is a wholly-owned subsidiary of KBR, Inc. and assumed responsibilities for the LOGCAP III contract.

12. Prior to 2005, KBR, Inc. was known as Kellogg Brown & Root, Inc., a wholly owned subsidiary of Halliburton Company. On December 14, 2001, the United States Army's Operation Support Command awarded the LOGCAP III prime contract to Brown & Root Services, Inc., a subsidiary of Kellogg Brown & Root. Brown & Root Services later transferred its responsibilities under the LOGCAP III contract to Defendant Kellogg Brown & Root Services, Inc., another Kellogg Brown & Root subsidiary. This Complaint refers to KBR, Inc., Kellogg Brown & Root, Inc., Brown & Root Services, Inc., and Kellogg Brown & Root Services, Inc., collectively as "KBR" or "Defendants."

13. Driven by revenue from LOGCAP III, KBR's revenues grew from \$5.1 billion in 2002 to \$10.1 billion in 2005, which at the time represented approximately half of the revenues of Halliburton. In January 2005, KBR, along with other Halliburton subsidiaries, emerged from Chapter 11 bankruptcy protection occasioned by the filing of 300,000 personal injury lawsuits alleging exposure to asbestos. KBR remained a wholly owned subsidiary of Halliburton until

April 2006, when Halliburton sold 20% of the company's stock in a public offering. One year later, in April 2007, KBR became an independent company.

II. JURISDICTION AND VENUE

14. This is an action brought pursuant to the False Claims Act, 31 U.S.C. §§ 3279 *et seq.*, and subject matter jurisdiction is invoked pursuant to 28 U.S.C. § 1331 and 31 U.S.C. § 3732, the latter of which specifically confers jurisdiction on this Court for actions brought pursuant to 31 U.S.C. § 3730.

15. This Court has jurisdiction over the Defendants under 31 U.S.C. § 3732(a), which authorizes nationwide service of process, and because the Defendants can be found in and transact the business that is the subject matter of this lawsuit in the Central District of Illinois.

16. Venue is proper in the United States District Court for the Central District of Illinois, pursuant to 28 U.S.C. § 1391(b) and (c) and 31 U.S.C. § 3732(a), because the Defendants transact business in this district and because the United States Army Sustainment Command, which is the contracting agency for the LOGCAP III contract, is headquartered at the Rock Island Arsenal at Rock Island, Illinois, within the Central District of Illinois.

III. BACKGROUND

A. The LOGCAP III Contract

17. LOGCAP—an acronym for “logistics civilian augmentation program”—is a U.S. Army initiative for the use of civilian contractors to provide combat support and combat service support (CS/CSS) to armed forces in wartime and other contingencies. Initiated in 1985, LOGCAP has grown exponentially in the last ten years as the U.S. government has relied increasingly on private contractors to support the military missions in Iraq and elsewhere. The value of the LOGCAP prime contract increased from \$2 billion in 1992 to \$23 billion in 2007. In 2007, KBR employed approximately 50,000 people under its LOGCAP contract.

18. Under LOGCAP between 1992 and 2007, a single company was awarded a prime contract to provide a wide range of logistical services over a period of time. The first LOGCAP prime contract, known as LOGCAP I, was awarded to KBR in 1992. The U.S. Army awarded the second LOGCAP prime contract, LOGCAP II, to DynCorp in 1997. The third LOGCAP prime contract, LOGCAP III, was awarded to KBR on December 14, 2001, as described below. The current LOGCAP prime contract is LOGCAP IV, which was awarded in 2007. Due to concerns about competition and KBR's performance on LOGCAP III, the U.S. Army split the award of the LOGCAP IV contract among three companies: Fluor, Inc., DynCorp, and KBR.

19. The contracting agency for LOGCAP is the United States Army Sustainment Command located in Rock Island, Illinois. Once the prime LOGCAP contract has been awarded, all work to be performed under the contract is awarded by individual task orders, which specify a particular Statement of Work (SOW) and period of performance.

20. The services provided under the LOGCAP program include supply operations, such as the delivery of food, water, fuel, spare parts, and other items; field operations, such as dining and laundry facilities, housing, sanitation, waste management, postal services, and Morale, Welfare and Recreation activities; and other operations, including engineering and construction, support to communication networks, transportation and cargo services, and facilities maintenance and repair.

21. KBR was awarded the LOGCAP III prime contract in a no-bid process with the Army Corps of Engineers on December 14, 2001. LOGCAP III was a performance-based cost plus award fee contract. It provided for KBR to be paid as profit 1% of its costs plus up to an additional 2% for good performance based on a detailed set of performance criteria.

Consequently, KBR's profit under the contract increased the more its costs increased, with no specified cap.

22. LOGCAP III initially was designed to last up to 10 years. However, KBR's performance under the contract was subject to intense criticism on multiple fronts. Reports by the Special Inspector for Iraq Reconstruction and other audit agencies beginning in 2004 found multiple deficiencies by KBR across a wide spectrum of responsibilities under LOGCAP III. In addition, various government audits, including a U.S. Government Accountability Office report issued in April 2005, turned up more than \$1 billion in questionable costs. The no-bid process that resulted in the award of the LOGCAP III contract was also the subject of fierce public and legislative criticism. As reported in a front-page article in the Washington Post, KBR's selection and performance gave rise to "several years of attacks from critics who saw the contract as a symbol of politically connected corporations profiteering on the war." Army to End Expansive, Exclusive Halliburton Deal (Washington Post, July 12, 2006). The Army eventually decided to terminate LOGCAP III early, awarding the LOGCAP IV contract in 2007.

23. Under LOGCAP IV, the three prime contractors, Fluor, DynCorp, and KBR, compete for the Task Orders under the contract. The U.S. Army awarded the first LOGCAP IV Task Order to Fluor on September 25, 2008. Fluor is now the prime LOGCAP contractor for the U.S. Army in Afghanistan. Meanwhile, KBR failed to earn a LOGCAP IV Task Order until February 27, 2010. KBR's responsibilities under the Task Order are to provide logistics support, transportation, postal services, ice plant operations, and air terminal operations throughout Iraq. KBR remains the only LOGCAP prime contractor for Iraq.

B. Regulatory Oversight of LOGCAP III

24. As a U.S. Army contract, LOGCAP is subject to the Federal Acquisition Regulations ("FAR"), as well as the Defense supplement to the FAR ("DFAR"). In addition, by

its express terms, KBR's performance under LOGCAP was required to comply with a wide range of terms, provisions, and representations set out in the industry standards, Army regulations and programs, and KBR documents, among other sources. By the terms of the contract these various "clauses and provisions have the same force and effect as if the entire full text was included in the solicitation/contract."

25. LOGCAP III was awarded on the basis of an offer by KBR, made 15 days after the attacks of September 11, 2001. The award stated expressly that it was "based upon the representations, resources and quality of performance proposed." The contract, at the time the largest effort undertaken in LOGCAP's history, provided for a one-year base period and nine one-year options.

26. The contract award specified that the Government "accept[ed] and incorporat[ed]" the offer and that the award was "based upon the representation, resources and quality of performance proposed." The contract also incorporated a variety of Army and Industry standards, including specific regulatory provisions for the requisition, management, and disposition of government property.

27. Among other regulatory provisions, the LOGCAP III contract incorporated FAR § 45.5, which at the time specified that KBR was responsible and accountable for the government property in its possession, and required it to establish and maintain a system to "control, protect, preserve, and maintain" all such property. 48 C.F.R. § 45.502(a). Government property refers to (a) property that the government furnishes to KBR and (b) property that KBR acquires under the LOGCAP III contract. See 48 C.F.R. § 45.101.

28. FAR § 45.5 additionally made KBR "responsible for the proper care, maintenance, and use of Government property in its possession or control from the time of

receipt until properly relieved of responsibility, in accordance with sound industrial practice and the terms of the contract.” 48 C.F.R. § 45.509. In accordance with this basic responsibility, KBR was required to promulgate and follow written procedures adequate for assuring that government property would “be used only for those purposes authorized in the contract.” 48 C.F.R. § 45.509-2.

C. KBR’s Control Procedures for Government Property

29. In accordance with the LOGCAP III contract, KBR developed LOGCAP Government Property Control Procedures (“PCP”). KBR submits each revision to the PCP to the Defense Contract Management Agency (“DCMA”) for approval. DCMA approved KBR’s most recent PCP on July 15, 2008. Exhibit 1, incorporated herein (PCP effective 7/15/2008). DCMA approved the PCP under 48 C.F.R. § 45.104(b), which allows the government to revoke the government’s assumption of risk for “loss, theft, damage or destruction” of government property if the contractor’s property management procedures are inadequate.

30. The PCP covers “all facets of property control, from requisition through disposition of all government property in the possession of KBR.” According to KBR, the PCP “ensure[s] government property is protected, controlled, preserved, and maintained in accordance with the FAR and the terms of the contract.”

31. PCP, Tab A, ¶5.1.1 provides that KBR must order government property—whether furnished by the government or acquired by KBR—in “[r]easonable quantities, commensurate with the work to be accomplished.” The quantities of material that KBR uses or otherwise consumes must likewise be “reasonable when compared to the work/job at hand and Material Requisitions.” Tab A, ¶5.1.4. KBR must use government property only for performing the LOGCAP III contract. Tab A, ¶5.1.5. KBR may dispose of government property only by “screening [the] items against existing and anticipated needs,” “[p]romptly reporting excess

items,” and receiving government approval to dispose of the property, among other requirements. Tab A, ¶5.1.8.

32. KBR supplements the PCP, discussed in greater detail below, with Desktop Operating Procedures (“DOP”) and Technical Directives (“TD”). KBR uses these forms to announce property management policies and procedures not otherwise provided for in the PCP. Unlike the PCP, KBR does not submit its DOPs or TDs to the government.

1. Requisition Procedures

33. KBR’s procedures for ordering government property are listed in Tab B to the PCP. Under these procedures, KBR requisitions of government property must be contractually authorized, necessary for performance of the LOGCAP III contract, and “for the quantities required for said performance.” PCP, Tab B, ¶4.1.

34. To obtain materials, KBR employees must prepare a Material Requisition request form (“MR”) and forward it to KBR’s Material Control office. Tab B, ¶4.2.1–.2. Material Control processes the request by first attempting to fill the requisition internally, either from local stock or from stock available in another warehouse, by taking the following steps:

- If it finds suitable property available locally, it must use that property to fill the MR request. Tab B, ¶4.3.2.
- If the local warehouse does not have the requested property, it must check whether it is available from any other KBR sites in the Middle East. Tab B, ¶4.4.
- If it locates suitable property at another site, it must verify that the property is excess to that site’s needs and available for cross-leveling. Tab B, ¶4.4.1.2.
- If the property turns out to be available, the other site must package and ship the property to the requesting site. Tab B, ¶¶4.4.2–.4.

- If, however, the property is not available in any other KBR warehouse, then it may submit the request to the Procurement Department for purchase. Tab B, ¶4.7.

35. Filling an MR with materials available in the local warehouse is known as a “transfer.” The process of screening MRs for suitable property available elsewhere within KBR is known as “cross-utilization” or “cross-leveling.” Cross-leveling is mandatory and necessary to prevent KBR from buying excess materials. Just as a warehouse manager in Baghdad cannot buy a new refrigerator while an identical model gathers dust in her warehouse, so too the manager cannot buy the new refrigerator when an identical model sits unneeded in a warehouse in Taji, twenty miles away. Whether locally or theater-wide, KBR must use the property in its possession (which the government has already paid for) before it buys more.

36. KBR supplements the PCP’s cross-leveling procedures with a DOP for the Distribution of Government Property (“DGP”). Exhibit 2 (DGP effective 8/23/08), incorporated herein, at ¶1.0 (“The following procedures support the Requisitioning TAB B of LCIII Property Control Procedures (PCP), to adequately screen items against purchase proposals.”). Under the DOP, KBR’s Distribution Management Center (“DMC”) is responsible for screening all procurement requests for possible cross-leveling. DGP, ¶3.1, Annex 1.0 (“All requests for procurement action . . . will flow through the DMC for screening for Cross Level.”).

37. KBR’s policy is that cross-level requests must be filled for all lines of inventory that are above a safety stock level (discussed infra ¶47). DGP, ¶4.1–.2. Inventory that does not have a safety stock level, such as excess materials, must be “entirely available” for cross-leveling. Id. Sites are required to fill all valid cross-leveling requests from the DMC. In screening procurement requests “for availability within theater prior to purchase,” the DMC must cross-level materials in the following order: (1) from redistributable storerooms, such as those

holding excess materials; (2) from underutilized stock; and (3) from stock, provided the item is above the safety stock level. DGP, ¶4.3.

38. The DOP further states that cross-leveling “should not only be used when tasked by the DMC. If a site foresees a need for an item(s), it is contractually obligated to attempt to obtain the items through cross-utilization within its project (group of sites).” DGP, Annex 2.0. Thus, through this provision and others, KBR concedes that its contract requires cross-leveling before buying or disposing of government property. See supra ¶31, (discussing PCP ¶5.1.8’s requirement that KBR cross-level before disposing of government property).

2. Utilization Procedures

39. The PCP includes procedures for ensuring “proper consumption, maximum utilization, and required maintenance of Government property in accordance with contractual requirements.” PCP, Tab F, ¶1.0. KBR must use government property for its authorized purpose. Tab F, ¶4.1. KBR departments designate Property Custodians to control and protect the government property they are issued. The Custodian’s duties include reporting losses and conducting and reconciling physical inventories. Tab F, ¶4.1.1.

40. KBR departments must turn in government property to Material Control when it is excess to their needs. Tab F, ¶4.1.2. Material Control reports “all idle property” to the relevant KBR Project Administrator. Tab F, ¶4.1.3. “Idle property no longer required to support the contract will be declared excess,” and will be stored pending disposition instructions from a DCMA Plant Clearance Officer or Contracting Officer. Tab F, ¶4.1.4.

41. KBR must maintain the government property in its possession, in accordance with the LOGCAP III contract, “sound industrial practices,” the equipment’s technical manuals, and local maintenance procedures. Tab F, ¶4.2. In many cases, KBR schedules government property for periodic maintenance. Tab F, ¶4.2.2.2.

42. KBR is also required to keep reasonable stock levels in its warehouses. Government property must be consumed in reasonable relation to contract requirements. Tab F, ¶4.3. KBR warehouses must maintain on-hand stocks “in reasonable quantities to support contractual requirements and in accordance with specific project policies or replenishment lead time. Stock levels will be based on equipment density, population to be supported, recurring demands or the history of a previous project with like property.” Tab F, ¶4.3.1.A.

43. In maintaining stock levels, KBR must return to its warehouses any government property it has taken out of inventory but not used, such as materials intended for specific projects or specially reserved in Administrative Change Letters (“ACLs”), which are DCMA directives authorizing the contractor to perform additional work under the contract. Tab F, ¶4.3.1.C. The return must occur within a reasonable time after KBR completes the relevant work or has made no demand for the property. The purpose of the requirement is to ensure that materials KBR reserves for a specific purpose, such as a construction job, are made available for other projects as soon as they are no longer needed. As with KBR’s requisitioning procedures, the rule exists to prevent KBR from ordering materials it already has available on hand.

44. KBR’s policies for managing inventory under the PCP are set forth in its LOGCAP III Materials Stock Plan DOP (“MSP”). Exhibit 3 (MSP effective 11/15/08), incorporated herein. In accordance with industry standards, KBR classifies the property in its possession as either stock (“STK”), special order items (“SP”), or non-stock (“NS”). See MSP, ¶4.4. Stock is material with recurring demand, and is re-ordered based on the number of those demands. For example, toothpaste is consumed regularly and would thus be classified as STK. Special order items are property with a non-recurring demand and no expectation of future demand, such as items ordered for a specific project. The steel beams needed to construct a

building would likely be classified as SP. Unlike stock, special order items are not replenished as they are consumed. SP is the default classification for all items added to a storeroom. Finally, non-stock items are those without demand. Non-stock is used until depleted and is not reordered. An example of NS property would be the extra steel beams leftover after a building is constructed. The primary difference between NS and SP is that NS is redistributable to other KBR sites (NS items must be offered to any sites that classify the same property as STK), while SP is reserved for the project for which it was requisitioned. Because there is little difference between unused SP items and NS items, KBR requires “strong justification” for maintaining items as SP when they do not meet demand criteria, even though they were classified SP by default when they entered the warehouse. MSP, ¶4.4.3.4. In other words, an item must have a known, upcoming need to continue to be classified as SP. KBR eliminated SP as a classification sometime after 2008 because warehouses were classifying their property as SP without justification, but in 2010 reintroduced it as the default classification.

45. KBR’s classifies materials on a site-by-site basis. Thus, KBR’s A-sites in Iraq might classify a generator as STK, based on its demand for the item, while KBR’s B-sites in Iraq might classify the same make and model generator as SP or NS.

46. Items are classified based on the number of demands for them. An item that is requested nine times during a 360-day period may be classified as stock and added to the Authorized Stock List (“ASL”). MSP, ¶4.4.2. The ASL is the list of property KBR keeps in stock. Items remain on the ASL so long as they have at least three demands in a 360-day period. When ASL items have fewer than three demands, but more than zero, they are re-classified as SP and removed from the ASL.

47. Stock items are re-ordered as they are consumed. For all STK item lines on the ASL, KBR calculates a reorder point and a safety stock level (“SSL”), based on historical usage data. MSP, ¶4.4.2. The reorder point is the minimum level of an item in inventory. The reorder point is calculated as the item’s lead time in days (the number of days between when the item is ordered and when it is received), multiplied by the item’s daily burn rate (the average number of items used per day over a given time period), plus the SSL (the quantity expected, based on usage rates, to be stocked in the warehouse at the moment the replenishment material arrives). MSP, ¶4.6. The SSL is a safety margin calculated to allow warehouses to continue to operate in the event of supply disruptions. When a line of STK inventory decreases to the reorder point, KBR places a requisition order for the item. The requisition order replenishes the STK line to the maximum allowed to be kept in inventory (known as the “stock objective”).

48. As stated above, SP was KBR’s default classification for all items added to a storeroom. MSP, ¶4.4.3.1. SP items have no reorder point and no SSL. Only when an item has been requested nine times or more will KBR change the SP classification to STK. Even then, KBR’s ASL Review Board must approve the reclassification by determining that the item has “legitimate ongoing requirements” that justifies its presence on the ASL. MSP, ¶4.2.

3. Inventory Procedures

49. KBR must conduct physical inventories of the government property in its possession. Government property must be inventoried at least annually. 48 C.F.R. § 45.508 (as amended June 12, 1989); PCP, Tab G, ¶4.1. Following each inventory, the count on the inventory record is compared to the balance on the corresponding property record, which is a record KBR keeps in Maximo for all government property in its possession, accounting for the property from requisition to disposition. Tab D, ¶3.0; Tab G, ¶4.7. KBR must record any unresolved discrepancies between the inventory count and its property records in an Inventory

Adjustment Report (“IAR”). KBR reports the IAR and the overall inventory results to DCMA. Tab G, ¶4.8.2. In particular, KBR must identify the discrepancies it found during the inventory and submit a complete list of the government property in its possession. KBR therefore has a contractual requirement to report missing government property (materials that appear in KBR’s property records but not in its inventory count) as well as “mystery” government property (materials that are counted but not found in KBR’s property records) to DCMA at least annually. 48 C.F.R. §§ 45.508, .508-2; Tab G, ¶4.1.4. KBR is liable under its contract for all unaccounted-for government property. See 48 C.F.R. § 45.502(a). In addition, KBR must report to DCMA any government property it counted in inventory that was “not in use nor needed by KBR.” Tab G, ¶4.1.4. Thus, KBR’s contract also requires it to report excess materials to the government at the conclusion of every physical inventory.

50. IARs are a record of the adjustments KBR makes to reconcile its property records with its physical inventory. IARs must be signed by a KBR Materials Manager and Property Manager, who certify that the adjustments are necessary. See Tab G, Exh. B.

4. Disposition Procedures

51. KBR has procedures for requesting disposition instructions from the government for government property that it identifies as “excess, obsolete, uneconomically repairable, or otherwise unusable.” Tab H, ¶1.0. The PCP calls for KBR to report excess/unusable materials to the government by submitting an inventory schedule in accordance with FAR § 45.6. Tab H, ¶5.1.1. Once KBR has submitted a disposition request, the government will issue instructions for getting rid of the assets (e.g., by selling them).

52. KBR departments initiate the disposition process by sending turn-in documentation to Material Control. The turn-in documentation includes a statement that the property is “excess, unserviceable, or obsolete.” Tab H, ¶6.2.1.4. Material Control then verifies

whether the property is serviceable, and whether it can be used elsewhere on LOGCAP III. If Material Control concurs after its review that the property is serviceable and excess, it submits a disposition request to KBR's Houston Support Office, for transmittal to the government via the government's automated screening system.

53. The Plant Clearance Automated Reutilization Screening System ("PCARSS") is an online system the government uses to screen and dispose of its excess property. Contractors submit schedules of excess inventory to the government through PCARSS. The government uses PCARSS to review the schedules and decide whether to accept or reject them.

54. KBR submits schedules to the government through PCARSS on Standard Form 1428, known as an Inventory Disposal Schedule ("IDS"). The IDS lists the property KBR wants to relinquish, including the property's location(s), condition code, quantity, and total acquisition cost. KBR must also indicate whether the property was furnished by the government or acquired by KBR. KBR must sign and date the IDS.

55. Prior to 2004, Form 1428 included the contractor's certification that the schedule "does not include any items reasonably usable, without loss to the Contractor, on its work" and that the contractor would notify the government of any change in the property's status prior to its final disposition.

56. In 2004 and afterwards, KBR made its certifications on a form memorandum attached to the Form 1428s. The memorandum was titled "Request for Disposition," and attests:

KBR request [sic] disposition instructions for the attached listed property. It has been determined that this equipment is excess serviceable items to the contract and there is no further use for the property in support of the mission requirements. The attached lists of item(s) have been screened for cross level requirements throughout the theater of operation. The items have been screened and verified there are no foreseeable requirements in support of the current mission at this time.

57. Exhibit 4 (7/1/09 TD Bulletin “PCARSS Process”), incorporated herein. KBR is obligated to transfer or cross-level government property before it submits the property to the government for disposition. Prior to disposition, KBR must take each of the following steps: (a) screen the items against KBR’s project-wide needs; (b) report excess items to its Houston Support Office for transmittal to the government via PCARSS; (c) receive government authority for disposition; and (d) remove the item’s identification as government property. PCP, Tab H, ¶¶6.1.1; 6.3–4.

58. Likewise, if KBR submits government property to the government for disposition and subsequently discovers the property is “usable on other work without financial loss,” it must notify the government immediately and request continued use of the property. Tab H, ¶5.1.5.

D. KBR’s Inventory Management System

59. KBR implements the PCP and DOPs through an automated property management system. The system is responsible for managing KBR’s government property in all respects, from maintaining appropriate stock levels to scheduling periodic maintenance. The system identifies when KBR needs to procure an item, when it needs to cross-level an item, and when it needs to dispose of an item. The property records KBR keeps on this system are supposed to be available theater-wide.

60. Since 2007, KBR has used IBM’s Maximo software to manage government property under LOGCAP. From 2007 to 2009, KBR used a proprietary version of Maximo 5.2 called “STEAM.” From 2009 to the present, KBR has used Maximo version 7.1. Unless stated otherwise, this Complaint refers to STEAM and Maximo 7.1 collectively as Maximo. Maximo is a universal interface for procurements, services, and work orders, allowing KBR to track government property from its acquisition to its delivery and usage.

IV. FACTUAL BACKGROUND

61. Mr. Howard joined KBR's LOGCAP project on July 19, 2007, as a data and systems analyst. His first assignment was to work as a Desktop Analyst for KBR's IT Department at the Al-Asad Airbase in Iraq, known as site B-1 within KBR. He soon relocated to KBR site B-9, at Habbaniyah Airbase, where he stayed until March 2008. Mr. Howard's job was to help KBR implement Maximo.

62. Mr. Howard quickly discovered that the systems Maximo was replacing were a mess. KBR had no universal system for tracking materials on the ground. Instead, each KBR site maintained its own property management system, which it used for its own day-to-day business. Such systems included Microsoft Access databases, Microsoft Excel spreadsheets, and self-made systems. These databases could not communicate with each other, so that KBR departments did not know anything about the materials other departments possessed. KBR had no system for tracking government property procurement, maintenance, and work orders across sites. Without such a system, on the ground level, every KBR unit was operated in isolation.

63. KBR's fragmented property management systems caused staggering amounts of waste, as Mr. Howard soon discovered. For example, soon after the release of the ASL Report in December 2008, Mr. Howard found that 33% of the stock in KBR's "A-site" storerooms had never been issued—KBR had bought the items and never used them. This idle property was worth \$20.5 million. See infra ¶100.

64. KBR's mismanagement of government property violated its PCP then in effect. Under KBR's PCP dated September 21, 2006, KBR was required to screen all procurement requests, including MR requests, for possible cross-leveling. KBR LOGCAP Government Property Control Procedures (Sept. 21, 2006), Tab B, ¶4.6 ("2006 PCP"). With no common

system, KBR sites had no way to know if other sites had the item they needed and, if so, whether or not the item was available.

65. KBR's baldly inadequate property management systems attracted the notice of government auditors, eventually forcing the company to introduce Maximo in 2007. Even then, KBR did not make the transition to Maximo smoothly. In October 2007, Michael Mayo, KBR's Principal Program Manager in Iraq, noted that a DCMA audit had found continued use of a legacy system, and that "we are not showing we have a standard system applied uniformly throughout the [LOGCAP] Project that assures accountability." Exhibit 5, incorporated herein. Mayo called KBR's poor systems a "long term" problem, which was an understatement. By 2007, KBR had operated LOGCAP for six years and bought billions of dollars' worth of materials without a proper system for making those purchases.

66. Mr. Howard was responsible for implementing the new Maximo system at KBR's B-9 site. In the course of his assignment, he told Lynellen Sullivan, KBR's Business Planning Manager for LOGCAP III, that he was qualified to create an automated inventory reporting system for Maximo. KBR did not have a functioning data reporting system at the time, preventing ground personnel and management from readily monitoring its inventory. Ms. Sullivan offered Mr. Howard a position with KBR's Support Office in Kuwait ("KSO") so he could undertake this new project. Mr. Howard took the job on March 16, 2008.

67. Mr. Howard programmed several reports, many of which he designed to monitor KBR's compliance with the PCP and DOP. The most important of these reports, which Mr. Howard began to write on June 4, 2008, was the ASL Report. The ASL Report used the data KBR now stored in Maximo to report (a) the amount of stock, special order, and non-stock items in KBR's warehouses, and (b) whether KBR's utilization of those materials justified their

classifications. In preparing the ASL Report, Mr. Howard worked with KBR's Distribution Management Center ("DMC") in Kuwait. The DMC is responsible for cross-leveling purchase requests against KBR's current inventory to see whether the requests could be filled internally. It had largely been unable to perform this task because of KBR's atomized systems for managing materials. DMC expected the ASL Report to enable it to cross-level materials functionally for the first time.

68. It was during the development of the ASL Report that Mr. Howard and DMC staff learned the extent of KBR's wasteful purchases. The Report showed that KBR warehouses held hundreds of thousands of inventory lines that KBR was either underutilizing or not using at all. Underutilization occurs when an item's stock level exceeds its utilization in the past 360 days. For example, an inventory line for pencils is underutilized if KBR keeps 20 boxes in its warehouses when it only used 5 boxes the previous stock year (360 days). "Zero utilization" occurs when KBR stocks an item that it did not use at all in the previous 360 days. As Mr. Howard developed the ASL Report in the summer and fall of 2008, he discovered that the value of KBR's underutilized and zero-utilized materials ran into the hundreds of millions of dollars.

69. The KBR employees who first reviewed the ASL Report's data were Mr. Howard, Zella Hemphill, and Brandon Simmons, who at the time was Ms. Hemphill's manager at the DMC. Ms. Hemphill had worked at the DMC as a Senior Materials Control Specialist responsible for cross-leveling materials requisition requests since June 2008. Ms. Hemphill had seen that KBR warehouse managers were ordering materials that they already had in their warehouses, or that were readily available nearby. These managers were hostile to her cross-leveling requests, refusing routinely to transfer property to other KBR sites. The ASL Report confirmed the practices she was observing.

70. Mr. Howard and Ms. Hemphill quickly reported their ASL Report findings to KBR management. KBR, however, did not address the problem or tell the government about it. KBR had a strong incentive to keep buying materials under LOGCAP's cost-plus payment model. The impetus infected KBR from the top down. KBR's senior management regarded new purchases as revenue and profit. KBR's low-level warehouse managers, meanwhile, regarded ordering new materials as a way to justify their jobs and salaries. In addition, many of them preferred to order new items simply because it was easier than cross-leveling.

71. Perhaps unsurprisingly, KBR's implementation of Maximo and the release of the ASL Report did nothing to slow its excessive purchasing. Even though KBR could now manage materials across its theater of operations, it continued to buy materials far in excess of its true requirements because it was being paid for every surplus item it bought. As discussed below, the techniques KBR used to purchase excess materials corrupted every step of its property management, from requisition to disposition. The practices enabled excessive ordering in two basic ways: (1) they allowed storerooms to order materials they already had available on hand; and (2) they prevented materials from being cross-leveled by other KBR storerooms.

V. KBR DOES NOT TRANSFER OR CROSS-LEVEL MATERIALS

72. KBR has knowingly bought hundreds of millions of dollars worth of excess materials by not filling orders from materials it has available on hand. For instance, in a Materials Control Technical Directive dated March 13, 2010, Rich Kaye, KBR's Deputy Program Manager—Support, stated that KBR was submitting 35% of its materials requisitions without screening them for sources currently available in KBR:

The use of Material Control (MATCON) status in Maximo is being bypassed 35% of the time. When MATCON is bypassed, requisitions move directly from Awaiting Approval (WAPPR) to Approved (APPR) without giving the Distribution Management Center (DMC) the opportunity to screen for asset availability and

to cross-level stocks within the Iraq Joint Operations Area (IJOA). Bypassing MATCON potentially results in purchasing property and material items that are excess elsewhere in the IJOA.

Exhibit 6, incorporated herein. The Directive noted that KBR had authorized personnel to bypass cross-leveling, and revoked that approval. The ability to bypass cross-leveling, however, had always been a clear violation of KBR's PCP. The reason, as Rich Kaye had himself explained to a KBR employee ten days earlier, is that if a KBR site "has an item(s) that can fill a MR . . . and you are the only place it can come from . . . and we don't cross-level it, we're going to create a PO (and expend \$\$) for items that [we] have on hand. . . . To have something on hand and to not use it in lieu of purchasing more is a recipe for the DCAA to find fault with us and collect back what we paid for the item" Exhibit 7, incorporated herein.

73. KBR and Rich Kaye had long known the company was not cross-leveling before it bought materials. At every stage of the inventory process, KBR's processes for managing government property were designed to submit orders for materials KBR already possessed. These flawed processes include: (1) failure to receive materials into its warehouses properly, in which improperly-received materials are stored in the warehouses but left unavailable to other users, who have to fill their order elsewhere (often, the materials are simply forgotten as soon as they arrive); and (2) for property that is received into a storeroom, improper reservation of the property for an invalid purpose, such as a work order that does not exist or that no longer needs the property. Because reserved property is unavailable for other projects, the property sits unused in the warehouse while KBR purchases identical items with every new work order.

A. KBR Creates Parallel Inventory by Failing to Receive Property into its Storerooms Properly

74. KBR's practice for receiving new inventory into its warehouses has caused hundreds of millions of dollars of waste and needless purchases. Under the PCP, government

property must be received in accordance with government regulations and KBR policies and procedures. PCP, Tab C, ¶1.0. Upon its arrival at a KBR site, all property must be received, unpacked, counted, and checked for discrepancies, before being “[p]romptly documented by receiving reports showing count, condition, description, and purchase order information.” PCP, Tab C, ¶5.0. This process must be conducted promptly. Under the PCP, the site has 24 hours to receive and process the property “and an additional 48 hours to input the receiving documentation into the automated stock record.” PCP, Tab C, ¶5.3. Any deviations from this schedule must be approved in advance by the site’s project management. Id.

75. To keep track of property that recently arrived at its warehouses, KBR used temporary receiving storerooms, or TRECs. TRECs are virtual holding areas that exist only in Maximo. When property has been ordered but not yet received and processed, it is listed in Maximo as being in the TREC. Once the recipient warehouse has accepted and processed the property, it transfers the property from the TREC into its active storeroom in Maximo. Thus, the purpose of the TREC is to account for property when it is in transit to the warehouse and up until it is entered into the warehouse’s automated records. At KBR, each warehouse had its own TREC. The warehouse inputted property into the TREC when the property was en route to the warehouse. Upon arrival, the warehouse had 24 hours to receive the property and 48 hours to input it into its automated stock records, pursuant to PCP ¶5.3. Once this happened, the property would be transferred in Maximo from the TREC to the warehouse’s active storeroom.

76. KBR did not use its TRECs as a tool for receiving property. Instead, TRECs served as a virtual dumping ground for property before it physically arrived at KBR’s warehouses. While KBR entered property into the TREC “to provide advance notification of the in-transit [movement of property] from one site to another,” it failed to transfer the property from

the TREC to the warehouse's active storeroom after it had received and processed the property. See Exhibit 8 (5/20/09 TD Bulletin), incorporated herein. Thus, property that was physically stored in KBR's warehouses was often still listed as "temporary receiving" in Maximo. This property often remained in the TREC for multiple years.

77. Because the warehouse was supposedly in the process of receiving the materials in the TREC, they did not appear as part of its active storerooms. Project managers would therefore not see the property in Maximo as they prepared lists of materials for upcoming work orders. Nor would the DMC find the property in Maximo as it cross-leveld MRs from other warehouses. For all practical purposes, the property did not exist to the people who needed it. Thus, KBR's LOGCAP Theater Procurement Supply Management ("PSM") Manager—Supply has acknowledged that "[u]tilization of TREC as a storage facility . . . is a misrepresentation of [] inventory quantity which relates to funds." Exhibit 9, incorporated herein.

78. KBR placed hundreds of millions of dollars' worth of government property in TRECs, and knowingly left most of that property in the TRECs for far longer than 48 hours. As early as May 20, 2009, KBR issued a Technical Direction Bulletin stating that "Material Control personnel are not using TRECs correctly." Exhibit 8. The Bulletin noted that the "integrity of the TRECs is the cornerstone of a valid receiving and inventory control system," but found that warehouses were issuing property "directly from the TREC" instead of from an active storeroom. It ordered materials managers to cease using TRECs for transactions (i.e., issuing property from TRECs), and to "scrub all TRECS" and "[r]emove any material line that has been in-transit for over 60 days." This "in-transit" property was not physically in transit, of course—it was property that was accumulating in KBR warehouses because it was never removed from the TREC. Importantly, the Bulletin also stated that materials control personnel would have to issue

a Report of Discrepancy (“ROD”) or Inventory Adjustment Report (“IAR”) whenever they “scrubbed” the TRECs for stagnant property. As stated above in ¶49, KBR would have to submit the RODs and IARs it issued to DCMA.

79. Notwithstanding the Bulletin’s strong words, KBR did nothing to address the problems with the TRECs. From her perspective at the DMC, Ms. Hemphill continually found warehouse materials off-limits to cross-leveling because they were in TRECs. She knew the “temporary” status of these materials was fictional. Seeking resolution, she notified her superior, Elias Feris, about the problem in late 2009 and early 2010. She told Mr. Feris that KBR was keeping incredible amounts of materials in its TRECs in near perpetuity. To prove her point, on or about January 14, 2010, Ms. Hemphill ran a report showing the current status of KBR’s TREC materials, and forwarded it to Mr. Feris.

80. The report showed that KBR had 74,542 inventory lines in its TRECs with a combined value of \$356,164,601.58. Exhibit 10, incorporated herein. Out of this total, 67,381 inventory lines—83.52%—had been in the TRECs for more than sixty days. The total value of this stale inventory was \$342,381,068.37. By contrast, KBR only had \$9,471,332.03 worth of freight (i.e., material in transit to a warehouse) in its TRECs.

81. The worst of the KBR sites were the D and F sites, located in and around Baghdad, where 97% of the 28,956 TREC inventory lines were over sixty days old. Exhibit 10. The value of these idle materials was \$153,387,292.12. Among them were ten electric generators, worth \$196,100 apiece, which the sites had transferred to a TREC on October 26, 2007 and never issued from the warehouse. The most expensive item in the D and F sites’ TRECs was a modular building worth \$305,052, which had entered a TREC on May 30, 2009—ten days after the Technical Directive Bulletin—and never been removed from the TREC or

utilized in any way. The overwhelming majority of items in the D and F sites had never been used. On the date of the report, the D and F sites had only issued inventory from 1,184 of the 28,956 lines in their TRECs.

82. KBR concealed its TREC issues from the government. On May 28, 2010, Conor O’Muirghesa, KBR Senior Procurement Support Manager, and David Roy, a KBR project manager, exchanged emails about whether an Inventory Adjustment Report (“IAR”) could be performed on materials in a TREC, or whether the materials would first have to be transferred outside the TREC. The emails copied Lynellen Sullivan, KBR’s Business Planning Manager in Baghdad, who weighed in:

An IAR is a report of an adjustment . . . and those adjustments are transactions in my humble opinion. Decide what you will, but know that we risk TREC audits if we begin consciously taking adjustments in TREC storerooms.

Exhibit 11, incorporated herein. Three minutes later, Ms. Sullivan added to her prior comment:

We created [the] LC-IRQ-DF-9999 storeroom at [the] D and F [sites] to avoid taking inventory adjustments in a TREC. We can do the same for every site. I really don’t want TREC audits [to] occur especially not right now.

Exhibit 12, incorporated herein. The LC-IRQ-DF-9999 storeroom was a virtual storeroom in Maximo, created for KBR to avoid performing inventory of TREC property in the TREC itself. At this point, Elias Feris, who also had been copied on the emails, stated that KBR was developing processes “to get away from TREC which should have never been created in the first place but we are where we are and have to fix it.” Exhibit 12. Ultimately, David Roy, the KBR project manager, sought clarification: “So to solidify this. No IAR[s] in the TREC correct?” Ms. Sullivan replied, “I advise against inventory adjustments in a TREC.”

83. KBR did not want to perform inventory adjustments in its TRECs because it did not want the government to know the amount of property the TRECs contained. Performing

inventory adjustments requires KBR to prepare and submit an IAR to the government. By transferring TREC materials to the LC-IRQ-DF-9999 storeroom before counting the inventory, it could report any discrepancies it found to the government without letting on that the materials had been stored in a TREC. Through this sleight of hand, the government did not learn that KBR's D and F site TRECs had stockpiled over \$153 million worth of materials.

84. In June 2010, Conor O'Muirghesa stated in an email that "the entire history of TRECs appears to be that [KBR] Sites let them get out of control and constantly have to be bailed out." According to Mr. O'Muirghesa, "[i]tems are placed in TRECs and then forgotten about." Exhibit 13, incorporated herein. He said that KBR needed procedures for monitoring TRECs to ensure they do not accumulate inventory, saying that KBR should "first divert the river that is filling the lake, then drain the lake."

85. Despite knowing about the problems with its TRECs in the first half of 2009, KBR delayed cleaning out the TRECs until mid-2010 because it did not want to notify the government of the problem, as Lynellen Sullivan made perfectly clear in May 2010. Consequently, KBR ignored the TREC problem until pressure from the DMC (sparked by Ms. Hemphill's reports) forced it to make reforms in 2010. By then, the problem was too large for KBR to handle. The TRECs, now larger than ever, could not unwind their property into KBR's active storerooms in Iraq because those storerooms were drawing down their inventory. Property that might have found a use in 2009 was totally unneeded in 2010. Inevitably, the TRECs became a major source of the materials KBR sought to offload onto the government through PCARSS, as described below. At no point has KBR told the government about the waste its TRECs caused.

B. KBR Improperly Reserves Materials

86. KBR orders excess materials by improperly “reserving” items in Maximo. KBR’s PCP and DOP allow property managers to reserve inventory for specific projects. The authority to reserve property typically comes from a government work order. These include Letters of Technical Directive (“LTD”), which are DCMA directives for the contractor to perform a specific task under the contract, and ACLs. Additionally, KBR may reserve property under an internal work order or in-house project.

87. Property managers reserve inventory to ensure that it remains available for use on a specific project. When KBR materials managers receive an ACL/LTD or internal work order, they may mark the materials necessary for the directive as “reserved” in Maximo. Reserved materials cannot be used for other requests, either from the same site or from other sites via cross-leveling.

88. KBR materials managers needed no internal authorization to reserve materials prior to KBR’s adoption of Maximo 7.1 in 2009. Since 2009, materials managers have been required to receive DMC’s approval before being allowed to reserve materials.

89. KBR materials managers have abused the reservation system in Maximo to increase or maintain their purchasing. In many cases, KBR warehouses list materials as reserved despite their having no applicable work directive. For example, STEAM (KBR’s version of Maximo 5.2) lacked a feature for locking fields in the database, often known as “field-level security.” A locking feature ordinarily prevents warehouse managers from classifying property as “reserved” unless the property is linked to a work order. Because STEAM had no locking feature, KBR warehouse managers could reserve property even when no work order existed.

90. At the DMC, Ms. Hemphill frequently witnesses KBR managers blocking requests to cross-level items by reclassifying them as reserved. Property that is reserved ceases

to be available for cross-leveling, even when it is otherwise classified as non-stock. The property KBR's managers reserve, however, is often unassociated with any work order and therefore cannot be properly reserved. Nonetheless, due to the reservations, the DMC can no longer cross-level the otherwise available material. If the DMC fails to find a second internal source for the material, KBR will order the material new and send a bill to the government.

91. KBR reserved materials specifically to avoid cross-leveling. Trina Hays, a KBR Senior Materials Control Specialist, wrote to two KBR employees in June 2009 about a KBR site that was "placing everything on reserve so DMC won't ask for it CL [cross-level] . . . they are ordering material and we have stock available. . . . We should build another warehouse to stock all the unnecessary material." Exhibit 14, incorporated herein. In May 2010, Frances Smith, a recipient of Hays' email, sent the email to Jeff Rock, KBR's LOGCAP Chief of Staff.

92. In other cases, warehouses knowingly hold materials as reserved after the expiration of the work directive. In April 2009, KBR issued an Operations Directive titled "Return of Unused ACL Material and Property to Material Control." Exhibit 15, incorporated herein. The Directive ordered project managers to implement a process for returning excess reserved materials to general inventory at the completion of construction projects. KBR managers were to hold a meeting within 48 hours of a project's completion to account for and return the unused and unissued materials they had reserved under the ACL. In practice, however, KBR has not implemented the Directive and does not remove the reserves on property after projects end. For example, in January 2011 Ms. Hemphill sought to cross-level materials from the D and F sites in Baghdad that had substantially wound down their operations. To her surprise, the warehouse managers at the sites refused to release the materials, claiming they were reserved for an ACL containing an astonishing (and improbable) 4,000+ lines of inventory. The

D and F sites were closing down at the time, however, and thus were unlikely to have such a large work order open. In fact, the ACL was little more than a repository for excess materials. Soon after Ms. Hemphill began to investigate, the D and F sites abruptly deleted 2,800 of the ACL's 4,000 inventory lines.

93. In addition, KBR reserves government property for contracts the government has not yet awarded. In January 2011, Elias Feris and Tracy Townsend directed KBR materials managers to ship approximately \$2.7 million worth of materials to northern Iraq, claiming the materials were for a State Department project to build museums in Kirkuk and Mosul. At the time, however, the State Department had not awarded KBR the museums contract or even indicated that KBR would receive it. FAR and the LOGCAP contract expressly prohibit KBR from using government property for unauthorized purposes. See ¶28. Nevertheless, Mr. Feris and Ms. Townsend, bent on disposing of excess materials, instructed employees to simply “put the materials on the shelf” in Kirkuk and Mosul “until we get cleared.”

94. DCMA discovered the unauthorized shipments to Mosul and Kirkuk and ordered them stopped. KBR had shipped approximately \$700,000 worth of materials at that point. Unable to continue the shipments, Mr. Feris and Ms. Townsend decided to achieve KBR's goal—getting rid of incriminating excess stockpiles—by reserving the materials in Maximo for the (nonexistent) museums contract. The value of the materials KBR reserved was approximately \$2 million. The reservations were improper because KBR had no contract or work order for the materials, and were a flagrant violation of the DCMA order. Due to the fraudulent reservations, KBR has placed excess materials “on the shelf” in their original warehouses until it could “clear” them for the project in Mosul and Kirkuk that, to this day, remains unauthorized and speculative.

95. Overall, KBR's improper inventory reservations allowed it to order tens of millions of dollars in excess materials. In May 2009, KBR identified \$25,814,165.85 worth of materials that were reserved in Maximo without justification. Exhibit 16, incorporated herein.

96. A related example of KBR reserving materials improperly, and a major contributor to its buildup of excess materials, is KBR's acquisition of materials for scheduled maintenance that it does not perform. Under LOGCAP, the Army pays KBR to conduct scheduled maintenance on government property. KBR purchases materials in advance of these scheduled maintenance sessions. For years, however, KBR's maintenance work orders have been severely backlogged. Exhibit 17 (backlog emails and reports), incorporated herein. Behind schedule, KBR has failed to perform much of the maintenance it was scheduled to perform.

97. At the same time KBR managers were calling its maintenance backlog "hopeless," however, the company continued to order materials for upcoming scheduled maintenance as if it had never missed a maintenance session. For example, Trina Hays wrote Frances Smith in June 2009 that a KBR maintenance employee in Taji, Iraq was ordering maintenance materials to "cover up the fact that he is not doing the maintenance he says he is doing." Exhibit 18, incorporated herein. Such purchases were excess to KBR's requirements. KBR warehouses were filled with materials for maintenance work orders that were overdue or cancelled. These materials were marked as reserved (or classified as STK) in Maximo, making them unavailable for use on other maintenance work orders. As KBR continued to fail to keep to its maintenance schedules, the materials simply accumulated in its storerooms.

98. Even when KBR did maintain property as expected, moreover, much the maintenance was for materials that KBR had bought in excess of project requirements. As

excess, these materials should not have remained in KBR's possession, rendering KBR's subsequent maintenance bills false.

C. KBR Sites Ignore DMC Cross-Leveling Requests

99. Even when materials are not reserved or otherwise unavailable, KBR sites prevent cross-leveling simply by ignoring the DMC's cross-leveling requests. In early 2009, DMC manager Brandon Simmons complained regularly to KBR's senior leadership in Baghdad that sites were consistently refusing to cross-level available materials. Ultimately, on February 2, 2009 Mark Brennan, KBR's Deputy Program Manager—Support, emailed KBR's project managers, copying KBR's senior leadership, that sites were “ignoring DMC requests and allowing the [cross-leveling] action to be cancelled through neglect We are getting daily reports of denials from your sites now and none of those denials have been sent through SLT [senior leadership team] for approval.” Exhibit 19, incorporated herein. Ms. Hemphill witnessed a short-lived uptick in cross-leveling following Mr. Brennan's email, but sites soon reverted to disregarding the DMC. KBR took no concrete steps to force its sites to follow cross-leveling procedures. Over a year later, 35% of KBR's requisitions were bypassing the DMC entirely. See supra ¶72.

D. KBR Bought Over \$600 Million in Excess Materials

100. The volume of excess materials that piled up in KBR's warehouses due to wasteful procurement is staggering. In early 2009, Mr. Howard created reports in Maximo that identified over \$628 million in excess government property in KBR's warehouses. This idle property was spread across KBR's many facilities. For example, KBR found in February 2009 that the A sites in Iraq held \$20.5 million in inventory that had never been issued from a storeroom. Exhibit 20, incorporated herein. Likewise, in May 2009 KBR found \$24 million in underutilized materials at the D and F sites in Iraq, a number that did not even include the

property at the sites that KBR had previously identified as excess. Exhibit 21, incorporated herein.

101. Mr. Howard reported these astonishing totals to his supervisor, Charles Weaver, his manager, Lynellen Sullivan, and to Jim Haught, KBR's LOGCAP Theater PSM Manager—Supply. Mr. Howard also reported the total to Jim King, Manager of the KBR SMART team, which audits the company's government property internally. The response to Mr. Howard's report was negative. KBR's senior management did not want to hear about the problem. For example, in April 2008 Mr. Howard had produced a report on excess materials in KBR's T-1 site. Responding to the report, his manager Lynellen Sullivan thanked him but said, "The reports you are sending is [sic] causing consternation" Exhibit 22, incorporated herein. As Mr. Weaver had explained to Mr. Howard in August 2008, KBR's earnings depended on it ordering materials, whether or not it had surplus stock on hand. KBR had never tried to control its inventory under LOGCAP because its revenue under the "cost-plus" contract required it to maintain its purchase levels. The company had no financial incentive to encourage consumption.

102. KBR's senior leadership monitored its purchases closely, receiving reports every month showing the value and amount of its requisitions. These amounts were substantial. Between October 2007 and August 2008 alone, KBR bought \$2,269,182,993 worth of materials under the LOGCAP III contract. Exhibit 23 (KBR Theater Wide Requisitions Total), incorporated herein. 84% of these purchases were commercial and 16% were via the federal supply service ("FSS"). In contrast to its focus on purchases, KBR management had little desire to see Mr. Howard's reports about what KBR was doing (or not doing) with the property it was buying. When his management refused to discuss his reports, Mr. Howard showed them to Mr. King. Mr. King reviewed the reports but concluded there was nothing he could do. He simply

told Mr. Howard that the excess was too large for KBR to handle, and that it would cause serious trouble with the government were the government to find out about it.

103. Mr. Howard ultimately realized that KBR's management would not respond to his ASL Reports in good faith. Concerned that KBR was not changing its procurement practices, Mr. Howard made backups of the data reports he had produced, including ASL Reports. He stored the backups on the KSO server before leaving Kuwait on scheduled leave. Upon his return, he discovered that his supervisor, Mr. Weaver, had found the backup reports on the KSO server and deleted them. When asked his reason for deleting the reports, Mr. Weaver said it was "too dangerous" for KBR to keep that information because DCAA could find it during an audit.

VI. KBR CONCEALED ITS EXCESS INVENTORY FROM THE GOVERNMENT

104. KBR knew it had accumulated a massive stockpile of excess materials due to its improper management of government property. With hundreds of millions of dollars' worth of inventory sitting idle in its warehouses, and with newly-ordered inventory arriving each day, KBR feared what might happen if the government learned the extent of its problems. KBR therefore decided to hide its excess materials from the government by not reporting data about the percentage of materials it was utilizing.

105. In May 2009, as part of KBR's preparations to turn over its LOGCAP III operations in Afghanistan to Fluor (which had won the LOGCAP IV task order for Afghanistan), KBR's project manager for Central Asia created a report for Floyd Shelton, KBR's LOGCAP III Business Planning Manager, on the number of employees and the amount of property at KBR's seven Afghan sites. Among other things, the report contained a file titled "Inventory Adjustment Report" listing KBR's inventory of materials in Afghanistan.

106. The Inventory Adjustment Report listed, for each KBR site in Afghanistan, the value of the inventory in its warehouses, the number of inventory lines, and the number of inventory lines the warehouses had issued. Exhibit 24, incorporated herein. From these numbers, the report calculated the utilization percentage of non-stock inventory, the number of inventory lines that had not been consumed (i.e., zero-utilized and never issued from a warehouse), and the total underutilization percentage.

107. The report showed, unambiguously, that KBR had not used 60% of the inventory lines in its Afghan warehouses. The total value of KBR's inventory in Afghanistan at that time was \$116,665,660. Were the report to see the light of day, every aspect of KBR's property management could be called into question. For example, KBR had classified 71% of its inventory lines as stock, defined as having at least three demands in each stock year, even though 60% of its inventory lines had zero demands in the prior year.

108. Floyd Shelton forwarded the report to David Stallard, KBR's Deputy Program Manager—Operations in Baghdad, copying Jim Haught, the KBR manager responsible for all LOGCAP III requisitions, and other KBR employees. Approximately two hours later, Mr. Haught forwarded Mr. Shelton's email to three KBR employees, including Tracy Townsend and John Vujic, and asked:

Tracy/John: Need you to validate the material numbers with our records. I don't think we should be showing underutilized on anything that can be seen by USG.

Exhibit 25 (emphasis added), incorporated herein. In response, Ms. Townsend forwarded the report and Mr. Haught's email to Mr. Howard (copying Mr. Vujic) and asked him to validate the material numbers. Mr. Howard understood the implication of removing the underutilization percentages and asked his manager, Lynellen Sullivan, if she was comfortable hiding the utilization information. After discussing Mr. Haught's directive at length, Ms. Sullivan emailed

Mr. Howard, “We don’t own the data . . . we want to [give] Materials and PSM whatever they want . . . so I’m good with it if it is what they want and need” Mr. Howard, however, refused to tamper with the report. The next day, seeing no action from Mr. Howard, Ms. Townsend forwarded the report to Ms. Sullivan directly (copying Mr. Haught) and asked her to validate the numbers by “prepar[ing] a report like the one listed in the attachment named ‘Inventory Adjustment Report.’” Mr. Haught, however, noticed a mistake in Ms. Townsend’s email and quickly clarified his directive to Ms. Sullivan:

I don’t need a report just like the attachment. The report should show total numbers and dollars, not usage or underutilization.

Exhibit 25 (emphasis added).

109. Lynellen Sullivan turned to Charles Weaver, the head of the KSO, and Mr. Howard (again) to prepare Mr. Haught’s report. Mr. Howard told Mr. Weaver that he did not want to be associated with the report, which he said would be tantamount to providing false information to the government. Mr. Weaver nonetheless directed Mr. Howard to prepare the sanitized report.

110. By removing its troubling utilization numbers from the report, KBR sought to keep the government in the dark about its excess materials and wasteful ordering. Such episodes occur regularly at KBR, whose employees are told to avoid using email when talking about excess materials and underutilization. In one instance, Jim Haught told KBR materials employees during a conference call to refer to excess materials as “redistributable” materials because the government would be less likely to notice the euphemism.

111. KBR’s top LOGCAP management knows about the improper practices responsible for KBR’s buildup of excess materials, but has buried the information. After Mr. Howard’s supervisors forced his resignation in August 2009 over his complaints about wasteful

spending, he resolved to tell KBR's senior management about the improper conduct he had witnessed. On or about February 25, 2010, Mr. Howard phoned KBR's Baghdad headquarters and spoke with Chief of Staff Jeff Rock and Deputy Program Manager Rich Kaye. Rock and Kaye comprised two of the six members of KBR's LOGCAP III Senior Leadership Team. During the call, Mr. Howard told them that KBR had over \$600 million in excess materials on the ground in the Middle East, and asked what they were doing to address the problem. Mr. Rock replied that they could not talk to Mr. Howard about the excess, but that if he sent them an email they would look into it.

112. Following up on their conversation, Mr. Howard emailed Mr. Rock on February 25, 2010. Exhibit 26, incorporated herein. He reiterated that KBR had over \$600 million worth of excess materials at the time he had departed, and explained the problems with the TREC's and KBR's refusal to cross level materials that contributed to the buildup. Mr. Rock acknowledged Mr. Howard's communication but did not otherwise respond. Soon thereafter, Mr. Howard forwarded Mr. Rock a copy of Jim Haught's email that recommended KBR hide utilization percentages from the government. See supra, ¶108.

113. Though Jeff Rock did not acknowledge receiving the forwarded Haught email, KBR soon acted to prevent its employees from leaking any more information. On March 11, 2010, Lynellen Sullivan emailed KBR's Maximo staff, "Do not speak to anyone outside of KBR about any internal business." Exhibit 27, incorporated herein. A KBR employee forwarded Sullivan's message to Howard and, recognizing that Howard had prompted it, said, "Striking a chord?☺"

114. Despite its top management having specific information about excess materials, KBR did not act on Mr. Howard's warnings or disclose them to the government. Instead, KBR

continued to conceal excess materials and underutilization from the government, trusting it could reduce its inventory without the government becoming aware of its problems. In this effort to quietly reduce its massive stocks of idle materials, KBR returned millions of dollars' worth of property to the government that some of its LOGCAP sites still needed and continued to order.

VII. KBR RETURNS EXCESS MATERIALS TO THE GOVERNMENT WITHOUT CROSS-LEVELING

A. KBR Returned Excess Materials Through PCARSS that it was Still Purchasing Elsewhere

115. KBR decided to reduce its stockpiles of excess materials by returning them to the government. KBR prepared and submitted PCARSS forms attesting that the property was surplus to its requirements and asking for disposition instructions. These submissions, which began around the same time KBR was hiding its utilization data from the government, were false. The PCARSS materials were not surplus because KBR did not cross-level them for internal demand. Instead, KBR sites continued to buy materials that they and other KBR sites were returning to the government as excess. KBR maintained its purchasing and its revenue through this fraud, even as it drew down its stockpiles of excess materials.

116. KBR's senior management in Baghdad pressured KBR sites to prepare PCARSS inventory schedules because they urgently wanted to dispose of the bloated inventory in KBR warehouses before the government understood the scope of the problem. They knew their window of opportunity was limited, because KBR was unwinding its operations in Iraq and would soon be unable to hide the excess materials any more. Thus, they directed their employees to funnel as much material as possible into PCARSS, without checking that the material was truly no longer needed.

117. In April 2009, KBR issued an Operations Directive for Non-Demand Supported Stock Removal. Exhibit 28, incorporated herein. The purpose of the Directive was to eliminate

material with less than two demands in the past year. Managers were to review their storerooms, identify excess materials, and report them to the Plant Clearance Officer for disposition. The managers were not, however, to look in TREC, unserviceable, or inactive storerooms, and were not to report any reserved property. The Directive required them and the DMC to cross-level the excess materials they found against existing requisitions, before submitting the materials to the government through PCARSS. The entire process, which KBR's senior management watched closely, was to be completed by the end of August.

118. KBR sent a signed memorandum to DCMA each time it entered property into PCARSS. The memorandum attested,

It has been determined that this equipment is excess serviceable items to the contract and there is no further use for the property in support of the mission requirements. The attached lists of item(s) have been screened for cross level requirements throughout the theater of operation. The items have been screened and verified there are no foreseeable requirements in support of the current mission at this time.

Exhibit 4 (emphasis added); Exhibit 29 (PCARSS submissions dated 5/28/2009 and 6/2/2009), incorporated herein. The memorandum was signed by a KBR property manager, project manager, material control manager, and the DMC.

119. These memoranda were patently false because KBR did not try to cross-level the materials it entered into PCARSS. Ms. Hemphill and the DMC witnessed property being submitted to PCARSS throughout 2009 without the DMC having screened it for internal demands. On June 18, 2009, KBR's Theater Materials Manager, Rochelle Knight acknowledged as much, saying KBR was not cross-leveling PCARSS submissions "with [] due diligence." Exhibit 30, incorporated herein.

120. In April 2009, Jim Haught ordered DMC manager Brandon Simmons to sign PCARSS memoranda whether or not the materials had been cross-leveled. Mr. Simmons

resigned rather than falsely certify that materials had been “screened for cross level requirements” when KBR had in fact not allowed the DMC to cross-level the materials.

121. KBR’s response to Mr. Simmons’ resignation was to cut the DMC out of the PCARSS process. In a June 24, 2009 email, Rochelle Knight announced that “[i]t is no longer a requirement to send [PCARSS requests] to the DMC. The new step in this process is to reserve the items in STEAM against your PCARSS schedule. The intent is to not cross level PCARSS items once they are reserved.” Exhibit 30.

122. Three hours after Rochelle Knight’s email, the new manager of the DMC, Conor O’Muirgheasa, emailed a PowerPoint presentation to Ms. Knight, Elias Feris, Tracy Townsend, and Jim Haught. Exhibit 31, incorporated herein. He later forwarded a copy to Mr. Howard, saying, “The below will probably get me in a lot of trouble. Still, I felt that it was the right thing to do.” Mr. O’Muirgheasa’s email stated that KBR’s PCARSS memoranda contained three false statements. With KBR’s proposed process, Mr. O’Muirgheasa said it could not determine that an item was excess outside its site, was not cross-leveling items theater-wide (“it is not a true statement”), and did not know there were no foreseeable requirements for the item (“this is not a true statement”). He then attached an example of how KBR was already returning non-excess materials to the government through PCARSS, under its existing process. Taking just the first line of a June 7, 2009 PCARSS schedule (60 tire tubes), Mr. O’Muirgheasa found there were two open MRs from other KBR sites for the same item. He concluded:

We are proposing to send [property] to the PCARSS process because it is showing as a non-demand support item in the storeroom of the site submitting the PCARSS schedule; yet it is a (correctly-classified) STK item in several other storerooms in theater; and it is being actively procured. Instead, we should be cross leveling / transferring this item to where it is needed, then sending the remainder (if any) to PCARSS.

Exhibit 31. At the time of the email, KBR had submitted dozens of PCARSS memoranda identical to the one Conor O’Muirgheasa identified as false. See Exhibit 29. KBR did not retract or amend these PCARSS submissions following Mr. O’Muirgheasa’s email.

123. KBR ignored Conor O’Muirgheasa’s concerns. Jim Haught issued a Technical Directive on July 1, 2009 adopting Rochelle Knight’s PCARSS revisions. Exhibit 4. He stated that excess materials should have been available for cross-leveling before being selected for PCARSS, and thus that DMC review of every PCARSS submission would be redundant. Mr. O’Muirgheasa’s PowerPoint, however, had shown Mr. Haught that KBR’s processes were broken and would only get worse with Ms. Knight’s changes. KBR disregarded Mr. O’Muirgheasa’s warnings because it was unwilling to delay its inventory drawdown, or sacrifice its current purchases, for the sake of eliminating its excess materials properly.

124. Jim Haught left LOGCAP in August 2009, and was replaced by Elias Feris, a specialist on the PCARSS process. Under Mr. Feris, KBR continued to send materials to the government through PCARSS. Increasingly, KBR packed excess materials into connexes, steel shipping containers measuring either 20’ or 40’ long. Once packed, KBR stored the connexes in anticipation of shipping them to Afghanistan for use on LOGCAP IV. The many connexes that have neither gone to Afghanistan nor to the government are currently sitting idle in Iraq. In many cases, KBR managers have refused to open these connexes for stored materials that other sites have requested. Thus, connexes are another way KBR prevents its existing government property from being used on the LOGCAP project in favor of making new purchases.

125. On November 5, 2009, DCMA issued KBR a Letter of Technical Direction (“LOTD”) to stop submitting serviceable materials through PCARSS. DCMA directed KBR to forward such disposition requests to its Theater Government Property Administrator instead.

Following the LOTD, KBR continued to submit materials to the government, likely through a different channel operated by the Defense Reutilization and Marketing Office (“DRMO”), by calling the materials unserviceable “fair wear and tear” property.

126. Ultimately, KBR resumed its submissions through PCARSS. As of June 24, 2009, KBR had submitted over \$1.24 million worth of materials. KBR’s submissions increased subsequently. Between January and October 2010, KBR submitted 97,711 items valued at \$187 million to PCARSS. Exhibit 32 (weekly PCARSS reports), incorporated herein. During that same period, the government accepted and relieved KBR of responsibility for 102,021 items worth \$170 million.

127. Elias Feris tracked KBR’s PCARSS activities in a weekly report. For example, on January 17, 2011 Mr. Feris circulated a report showing KBR sites had submitted \$40,613,416.05 worth of materials that week, and that KBR had \$873,212.53 in materials awaiting PCARSS disposition and \$16,520,230.95 in materials for which DCMA had provided disposition instructions. Exhibit 32. In his email, he observed that “we have been very successful in the PCARSS for a few years.”

128. As described above, KBR’s PCARSS submissions were false because it did not screen the materials it sought to return against its existing needs. KBR drew down its excess materials using PCARSS, all the while buying (and charging the government for) the same materials to meet its ongoing requirements. The government therefore paid extra during KBR’s drawdown just as it had during KBR’s buildup, and was left with millions of dollars worth of surplus materials that KBR should not have bought in the first place.

B. KBR Failed to Decrease its Purchase Levels

129. At the same time KBR was returning materials through PCARSS, it was not reducing its stock levels and reorder points. Thus, many of the items KBR returned as excess were immediately replaced in KBR's warehouses.

130. KBR tried to conceal this failure to reduce stock levels from the government. On September 28, 2010, DCMA officials Joyce Austin and Mary Sheridan spoke with Tracy Townsend, KBR's Theater Deputy Manager PSM—Supply. During the conversation, Austin and Sheridan asked Townsend if KBR had reduced its authorized stock levels ("ASLs"), which are the amounts of stock KBR keeps on hand. At the time, KBR had been winding down its operations in Iraq for over a year, and DCMA expected it to have reduced its requisition objectives to reflect its decreasing need for materials. Tracy Townsend responded to DCMA's question by lying. Ms. Townsend told DCMA that KBR had decreased its ASLs by 50% over its prior levels. This figure was wholly untrue—KBR had not reduced its ASLs at all.

131. Soon after the call, DCMA's Austin emailed Ms. Townsend to memorialize their conversation: "Just to reiterate our conversation today, KBR is currently re-leveling material stock at a 162.5 day level (50% below) its previous 365 day level (100%) established levels with base closures." Exhibit 33, incorporated herein. Ms. Austin also summarized statements Ms. Townsend had made about cross-leveling: "When a material requisition is submitted, the request is screened to see if the item(s) are available within KBR Also, you stated KBR is re-leveling with material identified as excess as part of your internal screening process, prior to being placed to the PRP listings." For reasons discussed above, Ms. Townsend's statements about KBR's cross-leveling were false and misleading. Her statements about ASLs were similarly untrue.

132. On or about the next day, DCMA held a conference call with Townsend and other KBR personnel, including Deputy Project Manager—Support Julia Hearn, Procurement and Materials Theater Managers Stan Lewis and Sal Hernandez, and Conor O’Muirgheasa. Mr. O’Muirgheasa invited Zella Hemphill to listen in. The DCMA staff on the call included Joyce Austin and Mary Sheridan. During the call, they again asked if KBR had reduced its authorized stock levels (“ASLs”). Sal Hernandez fielded the question this time and, backing away from Ms. Townsend’s statement, said that KBR had not in fact reduced its ASLs, but had reduced its requisition objectives. Mr. Hernandez said that KBR had set requisition objectives at 70% of the ASL and filled its remaining need (30%) from cross-leveling. This, however, was not true either. At that point, DCMA asked Conor O’Muirgheasa for his thoughts. Mr. O’Muirgheasa was unwilling to lie, and contradicted both Ms. Townsend and Mr. Hernandez by saying that KBR had not reduced either its ASLs or its requisition objectives. Upon hearing this, DCMA demanded to see KBR’s ASLs for 2009 and 2010. Following the call, Ms. Hearn lambasted Mr. O’Muirgheasa for telling DCMA the truth.

133. Though Mr. O’Muirgheasa alerted DCMA to Ms. Townsend’s and Mr. Hernandez’s false statements on this occasion, on information and belief KBR has misled DCMA repeatedly about its materials practices, both before and during the Iraq drawdown. Attesting to this are the efforts by Ms. Hearn and Ms. Townsend, the two most senior KBR officials on the call, to hide information from the government. KBR’s misstatements have enabled it to continue ordering far beyond its needs, at the expense of taxpayers.

COUNT ONE

False Claims Act

31 U.S.C. §§ 3729(a)(1) and (a)(2)

134. Relators allege and incorporate by reference the allegations made in Paragraphs 1 through 133 of this Complaint.

135. This is a claim for treble damages and forfeitures under the False Claims Act, 31 U.S.C. §§ 3729–33, as amended.

136. By virtue of the acts described above, Defendants knowingly submitted or caused to be submitted to the United States Government false or fraudulent claims for payment of services performed under the LOGCAP III contract when those services did not qualify for payment. Each of these requests for payment constitutes an actionable false claim under the False Claims Act.

137. Through the acts described above and otherwise, Defendants and their agents and employees knowingly made, used, and/or caused to be made or used false records and statements in order to get such false and fraudulent claims paid and approved by the United States Government.

138. The United States, unaware of the falsity of the records, statements or claims made by the Defendants, paid the Defendants for claims that would otherwise not have been allowed.

139. By reason of these payments, the United States government has been damaged, and continues to be damaged, in the amount of millions of dollars.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs/Relators pray for judgment against Defendants as follows:

1. That Defendants cease and desist from violating 31 U.S.C. §§ 3729–33;

2. That the Court enter judgment against Defendants in an amount equal to three times amount of damages the United States has sustained as a result of Defendants' actions, as well as a civil penalties against each Defendant of \$11,000 for each violation of 31 U.S.C. § 3729;

3. That plaintiffs/Relators be awarded all costs and expenses of this action, including attorney's fees; and

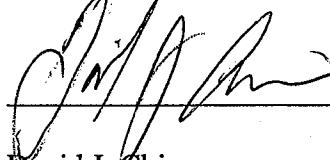
4. That the United States and plaintiffs/Relators receive all such other relief as the court deems just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiff hereby demands trial by jury.

Dated: March ²²__, 2011

Respectfully submitted,



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*Admission to Practice in the Central District is pending administration of an oath pursuant to Local Rule 83.5(E).

**Application for Admission to Practice in the Central District is being filed by mail concurrently with this filing, pursuant to Local Rule 83.5(F).