

We are responding to FactCheck.org's original release on June 18, 2004, "Anti-Bush Ad Overstates Case Against Halliburton," and to Mr. Jackson's subsequent appearance on *The NewsHour with Jim Lehrer* on June 22, 2004. The language and characterization of facts in MoveOn PAC's ad "Halliburton" have been subject to interpretation, and we would like to take this opportunity to reiterate the accuracy of the ad and further clarify the basis for the assertions made in it.

### **No-Bid Contracts**

We are not alone in our belief that rarely awarded no-bid contracts for billions of dollars<sup>1</sup> -- granted through a secret process that is not open to competition and of which elected Congressional leaders were not notified -- can fairly be characterized as federal dollars being handed out on a "silver platter." We believe this is accurate even if the administrative paperwork was filled correctly.<sup>2</sup> In fact, such controversy has arisen over this process -- specifically in reference to the Halliburton contracts -- that legislation has been introduced in both the House and Senate to "require public disclosure of noncompetitive contracting for the reconstruction of the infrastructure of Iraq."<sup>3</sup>

Moreover, even in your own criticism, you acknowledge that the General Accounting Office found that even these minimal paperwork requirements were not properly met.<sup>4</sup> As GAO Comptroller General David Walker said in his testimony before the House Committee on Government Reform, "The Army Field Support Command should have prepared a written justification to authorize the work without competition. In light of the exigent circumstances, such a justification was likely possible but needed to be made and documented to comply with the law and protect the taxpayer's interests."<sup>5</sup> The Minority Staff for the same Committee noted that the GAO found that "Administration officials 'overstepped the latitude provided by competition laws' when they misused the logistics contract to assign the planning job to Halliburton. This plan was the major reason that Halliburton was later given its \$7 billion sole-source oil infrastructure contract."<sup>6</sup>

In addition, recent news reports of involvement by top staff of Vice President Dick Cheney -- former Halliburton CEO -- only further serve to support our "silver platter" characterization. According to the *Los Angeles Times*, Rep. Henry Waxman reported that "Pentagon officials have acknowledged that Vice President Dick Cheney's chief of staff and other Bush administration political appointees were involved in a decision to pay Halliburton Inc. to plan for the postwar recovery of Iraq's oil sector...The decision, overruling the recommendations of an Army lawyer, eventually resulted in the award of a \$7 billion no-bid contract to Halliburton."<sup>7</sup>

### **Overcharging for Gasoline**

FactCheck.org correctly quotes the *Associated Press* article that states a Pentagon audit found Halliburton "may have overcharged the Army" by \$61 million for gasoline. Other media reports, however, clearly reference that the Pentagon auditors themselves found actual evidence of

overcharging. We note that even President Bush himself has indicated that he believes Halliburton did in fact overcharge the taxpayers.

In an article entitled “U.S. Sees Evidence of Overcharging in Iraq Contract,” the *New York Times* reported that, “A Pentagon investigation has found evidence that a subsidiary of the politically connected Halliburton Company overcharged the government by as much as \$61 million for fuel delivered to Iraq under huge no-bid reconstruction contracts, senior military officials said.”<sup>8</sup> The article went on to report that “military officials said the Pentagon was negotiating with K.B.R. over how to resolve the fuel charges. But Michael Thibault, deputy director of the Defense Contract Audit Agency, said in a telephone interview that a draft report by the agency had recommended that the Army Corps of Engineers seek reimbursement.”<sup>9</sup>

The *Washington Post* further reported that the Pentagon itself has actually made these accusations: “Pentagon auditors have accused the company of overcharging the government under both the LOGCAP and Army Corps contracts. The company is under investigation for allegedly overpaying a Kuwaiti fuel supplier by at least \$61 million to import gasoline to Iraq. The Pentagon has referred the matter to the Justice Department.”<sup>10</sup>

The *Associated Press* reported President Bush as stating, “If there’s an overcharge, like we think there is, we expect that money to be repaid.”<sup>11</sup> In addition, according to the AP, “Pentagon auditors say the company overcharged up to \$61 million for delivering gasoline to Iraqi citizens under a no-bid contract” and that “Pentagon officials said Thursday that Halliburton’s Kuwaiti subcontractor apparently charged too much for the gasoline.”<sup>12</sup>

### **Overcharging for Meals**

Not surprisingly, the exact amount Halliburton billed the government for meals it did not serve remains a moving target, and FactCheck.org is correct in calling the numbers “daunting.” Yet despite Halliburton’s continual denials of wrongdoing,<sup>13</sup> Pentagon auditors have in fact said that Halliburton’s subsidiary Kellogg, Brown & Root (KBR) did overcharge for meals that were not served and have barred the government from paying the believed amount of the overcharge.

In testimony before the House Committee on Government Reform in June 2004, Bill Reed, the director of the Defense Contract Audit Agency (DCAA) – the Pentagon’s audit unit – said that KBR’s own internal review indicate that the “billed headcount numbers exceed the actual meals served by 19 percent,” but “could be as high as 36 percent based on an on-going DCAA analysis.”<sup>14</sup> According to the *Detroit Free Press*, “In all, Reed put the amount of overcharging at \$186 million, and he barred the Pentagon from paying that amount.”<sup>15</sup>

### **“Still Doing Business”**

FactCheck.org’s release says, “The ad concludes by accusing Bush of a ‘failure of leadership’ because he is ‘still doing business’ with Halliburton. That suggests Bush should have cut off

federal contracts to the company.”<sup>16</sup> Nowhere in our ad does MoveOn PAC specifically link these two points, nor do we argue that the Bush administration should have necessarily severed contracts with Halliburton.

As the text of our ad correctly states, the Bush administration and the federal government is still doing business with Halliburton and its subsidiaries.<sup>17</sup> Our point was not about whether or not previous Halliburton contracts in which wrongdoing was found should be terminated; our focus is much more about the Administration’s awarding new contracts on top of these existing contracts -- even as Halliburton's activities are under a growing cloud of suspicion and investigation.

It is indisputable is that on October 15, 2003, Reps. Henry A. Waxman (D-Calif.) and Rep. John D. Dingell (D-Mich.) write a letter to OMB Director Joshua Bolten expressing concern about indications that Halliburton was “overcharging the taxpayer for importing gasoline into Iraq.”<sup>18</sup> By December 2003, the Pentagon had “found evidence that a subsidiary of the politically connected Halliburton Company overcharged the government by as much as \$61 million for fuel delivered to Iraq under huge no-bid reconstruction contracts.”<sup>19</sup>

But even though these questions were not resolved, on January 13, 2004, the U.S. Army Corps of Engineers awarded Halliburton a contract that could bring it up to \$1.5 billion worth of design and construction work for the U.S. military over the next five years.<sup>20</sup> Then, three days later, on January 16, 2004, the Army Corps of Engineers awarded Halliburton Co. another contract valued at up to \$ 1.2 billion to retrofit refineries, repair pipelines and boost oil production in southern Iraq.<sup>21</sup> These billion dollar contracts were awarded by the Bush administration to Halliburton after evidence of overcharging had been found and while serious investigations into Halliburton’s Iraq contracts were underway.

MoveOn PAC stands firmly behind our “Halliburton” ad. The facts remain:

- A major company with significant financial ties to the sitting Vice President of the United States<sup>22</sup> was awarded a multi-billion dollar no-bid contract<sup>23</sup> without competition or even disclosure to Congress – even as senior officials within the Vice President’s Office were involved in the process.<sup>24</sup>
- Actual evidence has been found by Pentagon auditors that Halliburton has overcharged American taxpayers millions of dollars for gas<sup>25</sup> and for meals that were never served to our troops.<sup>26</sup>
- Subsequent to revelations of overcharging, the Bush administration awarded Halliburton two billion dollar contracts for work in Iraq.<sup>27</sup>

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<sup>1</sup> Los Angeles Times, “Appointee’s Role in Halliburton Pact Told; Waxman Asks Cheney for Facts on the Award of a Controversial Iraq Oil Field Contract,” June 14, 2004, <http://www.latimes.com/news/nationworld/nation/la-na-halliburton14jun14.1.2464398.print.story?coll=la-headlines-nation>

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<sup>2</sup> See, for example: Letter from Rep. Henry Waxman to Lt. General Robert Flowers, U.S. Army Corps of Engineers, March 26, 2003, in which Rep. Waxman wrote, "I am writing to inquire why the Administration entered into a contract potentially worth tens of millions of dollars or more with a subsidiary of Halliburton without any competition or even notice to Congress."

[http://www.house.gov/reform/min/pdfs/pdf\\_inves/pdf\\_admin\\_halliburton\\_contract\\_march\\_26\\_let.pdf](http://www.house.gov/reform/min/pdfs/pdf_inves/pdf_admin_halliburton_contract_march_26_let.pdf).

Press Release, Sen. Joseph Lieberman, December 16, 2003. Lieberman "wrote the President urging him to use competitive procedures for awarding new contracts and he cosponsored legislation - enacted as part of the Iraqi supplemental appropriations bill - to require public disclosure of contracts not awarded through a fully competitive process." [http://govt-](http://govt-aff.senate.gov/index.cfm?Fuseaction=PressReleases.View&PressRelease_id=610&Affiliation=R)

[aff.senate.gov/index.cfm?Fuseaction=PressReleases.View&PressRelease\\_id=610&Affiliation=R](http://govt-aff.senate.gov/index.cfm?Fuseaction=PressReleases.View&PressRelease_id=610&Affiliation=R)

Statement by Sen. Richard Durbin, Democratic Policy Committee Hearing on Contracting Abuses in Iraq, November 3, 2003, <http://democrats.senate.gov/dpc/hearings/hearing6/durbin.pdf>

<sup>3</sup> S 876, introduced April 10, 2003, 108<sup>th</sup> Cong., 1<sup>st</sup> Sess. Introduced by Sen. Ron Wyden (D-OR), co-sponsored by Sens. Byrd, Clinton, Cantwell, Collins, Dayton, Durbin and Lieberman. Also see, Press Release, "Wyden Comments on Requested Halliburton Probe; Senator has warned of high costs of no-bid contracts in Iraq, urged DoD to act," January 15, 2004, [http://wyden.senate.gov/media/2004/01152004\\_halliburton.html](http://wyden.senate.gov/media/2004/01152004_halliburton.html). HR 1901, introduced April 30, 2003, 108<sup>th</sup> Cong., 1<sup>st</sup> Sess. Introduced by Rep. Maxine Waters (D-CA), co-sponsored by Reps. Julia Carson, Cummings, Danny K. Davis, Hinchey, William Jefferson, Eddie Bernice Johnson, Stephanie Tubbs Jones, Kleczka, Barbara Lee, John Lewis, Meeks, Major Owens, Payne, Rush, Robert C. Scott, Bennie G. Thompson, Towns and Watt.

<sup>4</sup> "Comptroller General David Walker faulted the Pentagon for some add-ons to those contracts, called 'task orders,' that he said were not properly justified in writing prior to the award."

<http://www.factcheck.org/article.aspx?docID=201>

<sup>5</sup> Statement of David M. Walker, Comptroller General of the United States, Testimony Before the Committee on Government Reform, House of Representatives, *Contract Management: Contracting for Iraq Reconstruction and for Global Logistics Support*, page 7, <http://www.gao.gov/new.items/d04869t.pdf>

<sup>6</sup> Fact Sheet, "New GAO Report Finds Multiple Iraq Contract Abuses," Minority Staff, Committee on Government Reform, US House of Representatives, June 14, 2004,

[http://www.house.gov/reform/min/pdfs\\_108\\_2/pdfs\\_inves/pdf\\_admin\\_iraq\\_contract\\_gao\\_report\\_june\\_14\\_factsheet.pdf](http://www.house.gov/reform/min/pdfs_108_2/pdfs_inves/pdf_admin_iraq_contract_gao_report_june_14_factsheet.pdf).

<sup>7</sup> Los Angeles Times, "Appointee's Role in Halliburton Pact Told; Waxman Asks Cheney for Facts on the Award of a Controversial Iraq Oil Field Contract," June 14, 2004, <http://www.latimes.com/news/nationworld/nation/la-na-halliburton14jun14.1.2464398.print.story?coll=la-headlines-nation>

<sup>8</sup> New York Times, December 12, 2003.

<sup>9</sup> New York Times, December 12, 2003.

<sup>10</sup> Washington Post, March 19, 2004.

<sup>11</sup> Associated Press, December 12, 2003,

[http://www.boston.com/news/world/articles/2003/12/13/halliburton\\_should\\_repay\\_overcharges\\_on\\_gas\\_bush\\_says?mode=PF](http://www.boston.com/news/world/articles/2003/12/13/halliburton_should_repay_overcharges_on_gas_bush_says?mode=PF)

<sup>12</sup> Associated Press, December 12, 2003,

[http://www.boston.com/news/world/articles/2003/12/13/halliburton\\_should\\_repay\\_overcharges\\_on\\_gas\\_bush\\_says?mode=PF](http://www.boston.com/news/world/articles/2003/12/13/halliburton_should_repay_overcharges_on_gas_bush_says?mode=PF)

<sup>13</sup> Los Angeles Times, "Report Singles Out Halliburton in Iraq Mismanagement," June 15, 2004,

<http://www.latimes.com/news/nationworld/iraq/la-na-halliburton16jun16.1.1467460.story?coll=la-home-headlines>;

Reuters, June 17, 2004, <http://www.reuters.com/newsArticle.jhtml?type=businessNews&storyID=5171227>

<sup>14</sup> Statement of Mr. William H. Reed, Director of the Defense Contract Audit Agency, House Committee on Government Reform, June 9, 2004, <http://reform.house.gov/UploadedFiles/DCAA%20-%20Reed%20Testimony.pdf>

<sup>15</sup> Detroit Free Press, "Government Expenses: \$1 Billion has Been Misspent in Iraq," June 16, 2004,

<http://www.freep.com/cgi-bin/forms/printerfriendly.pl>

<sup>16</sup> <http://www.factcheck.org/article.aspx?docID=201>

<sup>17</sup> Houston Chronicle, January 14, 2004, January 17, 2004; Army Corps of Engineers, *Engineer Support to Operation Iraqi Freedom: Frequently Asked Questions* (September 8, 2003),

[www.hq.usace.army.mil/cepa/iraq/faq.htm](http://www.hq.usace.army.mil/cepa/iraq/faq.htm). Also see Letter from Reps. Waxman & Dingell to Joshua R. Bolten, Director of the Office of Management and Budget, September 12, 2003.

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<sup>18</sup> Letter from Reps. Waxman & Dingell to Lt. General Robert B. Flowers, U.S. Army Corps of Engineers, October 21, 2003.

<sup>19</sup> New York Times, December 12, 2003.

<sup>20</sup> Houston Chronicle, January 14, 2004, January 17, 2004.

<sup>21</sup> Houston Chronicle, January 14, 2004, January 17, 2004.

<sup>22</sup> Press Release, "Vice President Dick Cheney and Mrs. Cheney Release 2003 Income Tax Return," Office of the Vice President, April 13, 2004, <http://www.whitehouse.gov/news/releases/2004/04/20040413-5.html>; Los Angeles Times, "Appointee's Role in Halliburton Pact Told; Waxman Asks Cheney for Facts on the Award of a Controversial Iraq Oil Field Contract," June 14, 2004, <http://www.latimes.com/news/nationworld/nation/la-na-halliburton14jun14,1,2464398,print.story?coll=la-headlines-nation>

<sup>23</sup> San Francisco Chronicle, March 8, 2003; Ottawa Citizen, March 7, 2003; Wall Street Journal, March 7, 2003; New York Times, April 11, 2003; Associated Press, November 11, 2003; Letter from Reps. Waxman & Dingell to Joshua Bolten, Director of the Office of Management and Budget, October 15, 2003.

<sup>24</sup> Los Angeles Times, "Appointee's Role in Halliburton Pact Told; Waxman Asks Cheney for Facts on the Award of a Controversial Iraq Oil Field Contract," June 14, 2004, <http://www.latimes.com/news/nationworld/nation/la-na-halliburton14jun14,1,2464398,print.story?coll=la-headlines-nation>; Time, May 30, 2004.

<sup>25</sup> New York Times, December 12, 2003.

<sup>26</sup> Statement of Mr. William H. Reed, Director of the Defense Contract Audit Agency, House Committee on Government Reform, June 9, 2004, <http://reform.house.gov/UploadedFiles/DCAA%20-%20Reed%20Testimony.pdf>

<sup>27</sup> Houston Chronicle, January 14, 2004, January 17, 2004.