

to involve the international community in the Iraqi end-game and the critically important job of rebuilding the political and economic infrastructure of Iraq.

Mr. REID. Mr. President, I rise to support this important bill that will provide \$60 billion for our troops in Iraq. I am especially proud of the Nevada sons and daughters who have been deployed to the Middle East as part of Operation Iraqi Freedom. As many of you know, Nevada has the finest military aviation training facilities in the world.

Nellis Air Force Base and Fallon Naval Air Station train the aviators serving on the front lines of this battle. Hundreds from Nellis—pilots and other mission critical personnel—are right now serving on the front lines. Hundreds trained at Fallon are there too. When you see those Navy fighters taking off from carriers in the Gulf, chances are they were trained at Fallon.

Nevada's Guard and Reserve troops are also playing a significant role. Nevada's percentage of Guard and Reserve call-ups and deployments has been one of the highest in the Nation. I understand why so many Nevadans have been called up. They are talented. They are heroes. When this action started, I promised to do everything in my power to ensure that Congress fully funds and supports the needs of our troops as this conflict proceeds. This bill provides more than \$60 billion to make good on the commitment that my colleagues and I made to support our troops.

I am also encouraged by the efforts the administration made to provide additional funds for protecting our front-line defenders here at home—the emergency responders we depend on to respond to a terrorist attack. I believe we could have done more to give cities and counties in each of our states the resources they need to ensure our homeland is as secure as it can be. I am pleased that we were able to add an additional \$150 million for securing nuclear materials at home and abroad. This amendment will provide additional resources to keep terrorists from getting the ingredients they need to make a dirty bomb. I want to thank my colleagues for completing this bill in a timely manner to help our troops as they help bring freedom to the people of Iraq.

Mr. STEVENS. Do we have the yeas and nays on final passage? I am too tired. We are going to third reading. We are finished. I am going to do that right now. We are done.

Mr. President, I ask unanimous consent that following the passage of S. 762, the bill be held at the desk; provided further that when the Senate receives the House companion bill to S. 762, the Senate proceed to its consideration, all after the enacting clause be stricken, the text of S. 762, as amended, be inserted in lieu thereof; provided further the bill then be read for a third time and passed, the motion to recon-

sider be laid upon the table, the Senate then insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate; finally, I ask unanimous consent that passage of S. 762 be vitiated and it be placed back on the calendar at that time and that the conferees be the entire Appropriations Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Parliamentary inquiry: There is no further business to be had on that bill; right?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Good night, ladies and gentlemen.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Kentucky (Mr. MCCONNELL) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. MCCONNELL) would vote "yes".

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. BYRD) and the Senator from Massachusetts (Mr. KERRY) would each vote "aye".

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—93

Akaka	Corzine	Hutchison
Alexander	Craig	Inhofe
Allard	Crapo	Jeffords
Allen	Daschle	Johnson
Baucus	Dayton	Kennedy
Bayh	DeWine	Kohl
Bennett	Dodd	Kyl
Biden	Dole	Landrieu
Bingaman	Dorgan	Lautenberg
Bond	Durbin	Leahy
Boxer	Edwards	Levin
Breaux	Ensign	Lincoln
Brownback	Enzi	Lott
Burns	Feingold	Lugar
Campbell	Feinstein	McCain
Cantwell	Fitzgerald	Mikulski
Carper	Frist	Miller
Chafee	Graham (FL)	Murkowski
Chambliss	Graham (SC)	Murray
Clinton	Grassley	Nelson (FL)
Cochran	Gregg	Nelson (NE)
Coleman	Hagel	Nickles
Collins	Harkin	Pryor
Conrad	Hatch	Reed
Cornyn	Hollings	Reid

Roberts	Shelby	Sununu
Rockefeller	Smith (OR)	Talent
Santorum	Snowe	Thomas
Sarbanes	Specter	Voinovich
Schumer	Stabenow	Warner
Sessions	Stevens	Wyden

NOT VOTING—7

Bunning	Inouye	McConnell
Byrd	Kerry	
Domenici	Lieberman	

The bill (S. 762), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I announce for Senator BYRD that at the time of final passage, he was necessarily absent, but if Senator BYRD had been here, he would have voted aye.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I ask unanimous consent that it be in order for the chairman and ranking member, with the concurrence of both leaders, to be permitted to make technical and conforming changes as necessary to the supplemental appropriations bill. The bill was put together pretty quickly, and we want to do it carefully. We have cleared this with both leaders and with both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPETITIVE BIDDING ON GOVERNMENT CONTRACTS

Mr. WYDEN. Mr. President, of course, the debate throughout the day has been about the wise use of taxpayers' money. Yesterday in the Wall Street Journal, there was an article entitled "USAID Defends Secret Bids to Rebuild Iraq." At the same time, there was an article in the Washington Post entitled "Contracts to Rebuild Iraq Go to Chosen Few." "No Bidding War on Contracts in Iraq."

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 2, 2003]

THE ASSAULT ON IRAQ—USAID DEFENDS SECRET BIDS TO REBUILD IRAQ  
NATIONAL SECURITY IS CITED AS REASON FEW FIRMS KNEW OF \$1.7 BILLION IN CONTRACTS

(By Neil King Jr.)

WASHINGTON.—Amid worries that preparations aren't moving as fast as hoped, a top procurement official defended the government's decision to approach only a handful

of U.S. companies to help rebuild postwar Iraq.

The U.S. Agency for International Development chose to put out the bids in secret to a limited number of companies under an exception that allows agencies to by-pass the usual competitive bidding for national security reasons, said Timothy Beans, the agency's chief of procurement.

"Anytime you are in wartime condition you don't have the four or five months to go out on the street for the kind of competition you'd like," Mr. Beans said.

USAID began approaching preselected bidders for postwar Iraq work as early as late January, when the possibility of going to war with Iraq was still being hotly debated at the United Nations. Requests for proposals went out for four contracts in mid-February, with two more early last month. Altogether, the work—including rebuilding highways and bridges and rehabilitating Iraq's school system—is expected to cost at least \$1.7 billion.

Similar exceptions were made for reconstruction after the recent antiterror campaign in Afghanistan and in the mid-1990s after the war in Bosnia, Mr. Beans said. He conceded that except for those three emergencies the restricted contracting procedures are unusual.

USAID officials said last week that as many as six contract awards would be announced soon, but final decisions may now be put off until next week. Some companies competing for the contracts say they are receiving conflicting signals over the length and ambitiousness of the work.

Plans last month outlined an aggressive rebuilding campaign, including sweeping changes to Iraq's education and health systems, that would nonetheless last only 12 months. Some U.S. officials now concede that any meaningful work will take much longer than a year, but others in the administration are wary of moving forward on anything that would suggest a prolonged U.S. occupation of Iraq.

The uncertainty over how to proceed also reflects mounting unease over the U.S.-led military campaign, which has so far offered scant evidence that average Iraqis are ready to embrace American control of their country.

Reconstruction officials within the administration had planned to use the southern city of Basra as a test case for the U.S. rebuilding effort. Iraq's second-largest city has a dominant Shiite population that has long been at odds with Saddam Hussein. But continued fighting there, and signs that the local population might be less receptive than some predicted, have put those plans on hold.

Competition for the big infrastructure-rebuilding contract, valued at \$600 million, was limited to seven large U.S. engineering companies, several of which have now either been dropped from the running or formed teams with other bidders. People involved in the bidding say the lead competitors are Bechtel Corp. and Parsons Corp., which has taken on Halliburton Co.'s Kellogg Brown & Root as a subcontractor. Halliburton announced Monday that its KBR division won't seek to be the prime contractor for rebuilding Iraq's infrastructure, but "remains a potential subcontractor for this important work."

The administration's postwar plans for Iraq have stirred charges in Europe that all major rebuilding work will go to U.S. concerns. While none of the contracts will go to foreign companies, those companies will be eligible to fill in as subcontractors, Mr. Beans said.

CONTRACTS TO REBUILD IRAQ GO TO CHOSEN FEW

(By Jackie Spinner)

KBR, the company the U.S. government picked this week to put out oil-field fires in Iraq, has a long history of working for the military on big projects in foreign hot spots. The former Kellogg Brown & Root—a subsidiary of Houston-based energy services firm Halliburton Co., which Vice President Cheney headed from 1995 until 2000—developed a contingency plan for extinguishing the fires as part of a 10-year Pentagon logistics contract it was awarded in 2001 through a competitive bid, company officials said. So when the U.S. Army Corps of Engineers needed a firm to douse fires ignited by re-treating Iraqi forces, the company was already on the ground in Kuwait. "KBR have been over there, and they had an existing contract with the Army," said Scott Saunders, a spokesman for the Corps of Engineers. "Because of that and because of that need to snuff those fires quickly, KBR was sole-sourced." The work is being subcontracted to Boots & Coots International Well Control Inc. and Wild Well Control Inc.

The latest contract was awarded under a waiver the Bush administration granted in January allowing government agencies to handpick companies for Iraqi reconstruction contracts. The U.S. Agency for International Development is handling the bulk of the contracts. KBR is also on the short list of companies the USAID invited to bid for the prime contract to rebuild Iraq's infrastructure after the war, including highways, bridges, airports and government buildings. The others include Fluor Corp., Washington Group Inc., Bechtel Group, Louis Berger Group and Parsons Corp. That contract, for at least \$900 million, could be awarded as soon as today. The government is proposing to spend \$2.4 billion on humanitarian aid and reconstruction in Iraq.

Halliburton plans to put KBR and another subsidiary into bankruptcy protection this summer as part of a plan to settle outstanding asbestos-related claims for about \$4 billion. But KBR's government operations aren't part of that plan, Halliburton said.

Some government contract experts said the latest KBR award shows how companies with long-standing ties to the military get dibs on new work. The company has been building ships, mess halls and toilets at base camps around the world for six decades, originally as Brown & Root. Over the past decade it has won contracts to provide logical support to troops, most recently in Somalia, Haiti and the Balkans.

But the experts said the problem is that not putting the contracts out for bid allows critics to question the fairness of the process and whether the most politically connected companies have an edge in getting the awards.

"The administration has made potential use of shortcuts and exceptions that let it put literally billions of taxpayer dollars in the hands of selected contractors," said Charles Tiefer, a law professor at the University of Baltimore and the author of a casebook on government contracting. "Naturally, a large credibility gap looms between the administration's plausible excuses that tight deadlines and exceptional security needs compelled it to forgo the usual competitive safeguards and the critics' observations that it is awfully convenient for juicy plums to land in the lap of the vice president's former company."

William H. Carroll, a government contract lawyer who also teaches at American University's Washington College of Law, said there is justification for getting the contracts out as soon as possible. But he said it could come at a price.

"Because of the intense nature of the need to do things quickly, the work may not be as well defined, and the fact that there isn't a competitor putting pressure on price, these are probably going to be expensive contracts," Carroll said. "I don't think there's an evil intent. But our procurement process relies on competition to determine what is a fair and reasonable price."

The General Accounting Office found in September 2000 that the U.S. Army had not done enough to contain costs associated with KBR's \$2.2 billion work providing logistical and engineering support in the Balkans.

Officials "frequently have simply accepted the level of services the contractor provided without questioning whether they could be provided more efficiently or less frequently and at lower cost," the report said. The company and the Pentagon disputed the findings, which did not question the quality of the work KBR had performed.

The Corps of Engineers said the value of the KBR contract in Iraq will depend on the scope and number of fires it will have to extinguish during and after a war that has not yet ended. So far there are seven oil fires burning in Iraq. Steven L. Schooner, co-director of the Government Procurement Law Program at George Washington University's law school, said KBR's track record is not in question.

"They have won the hearts and minds and stomachs of the military," he said. "They have done a fabulous job, and our troops are better off for it."

Schooner said the Cheney connection to Halliburton should not be an issue. But, he said, the non-competitive nature of awarding the Iraqi reconstruction contracts has made it one.

"Had these contracts not been awarded in a secretive manner it would be easier to cut off the questions earlier," he said.

Mr. WYDEN, Mr. President, suffice it to say, the Senate missed an opportunity tonight to stand up for openness and competition in contracting and to make sure there was an opportunity to spend prudently on the effort to rebuild Iraq. It seems to me that too much taxpayers' money is at stake in rebuilding Iraq to allow Federal officials to use a secret process to handpick companies to do this work. There ought to be an open and full and competitive process to ensure the prices charged are reasonable and the contractors selected are the most qualified.

Senator COLLINS of Maine and I worked for 48 hours on a bipartisan basis to make it possible to offer an amendment that would ensure that there be real openness in contracting and that there be an effort to make sure that the billions of dollars that are going to be spent rebuilding Iraq be part of a contract process that is governed by competitive bid.

It is a very simple proposition. We ought to make sure it is out in the open, it is transparent, that the public can see what is going on, and that contracts should not just go to a handful who have power and influence, particularly in this city.

Unfortunately, because of an objection, that amendment was not added tonight. I come to the floor to say that I intend to keep coming back until the Senate stands up for openness in Government contracting and competitive bidding so that the taxpayers' money is used well.

That is not what is happening with \$1.7 billion worth of contracts for rebuilding highways and bridges and rehabilitating Iraq's school system. Recently, the U.S. Agency for International Development handpicked a selective group of companies to participate in a secret bidding process for awarding four separate contracts totaling \$1.7 billion. That is just one example of what is ahead with respect to how taxpayers' money is going to be used.

In the past, the General Accounting Office has been very critical of this kind of approach. The General Accounting Office has found that contractors had not done enough to contain costs on projects involving engineering support in areas where the military was involved.

According to a September 2000 report by the General Accounting Office, Federal officials said:

Frequently, they have had accepted the level of services the contract provided without questioning whether they could be provided more efficiently and more frequently and at lower cost.

What could be more important for this Senate to stand up for? What could be more important than to make these contracts involving billions of dollars be let in a way that is efficient and open?

The current plan to select contractors for reconstruction work in Iraq without competitive bidding creates the potential for more of the same, more of the same where noncompetitive contracting work is conducted by the Federal Government and we have a repeat of the overpriced contracts and less acceptable services that come about when contracting is not competitive.

Given the enormous sums of taxpayer money that will be involved, there ought to be competitive bidding across the board. Certainly there ought to be competitive bidding unless someone shows a compelling national security reason to do otherwise. I am of the view that if Federal agencies are not going to use full and open competition, at a minimum they ought to have the burden of demonstrating why competition is not the proper way to avoid the contracts.

Senator COLLINS and I wanted, tonight, with the very helpful counsel of Senator CLINTON of New York, who also worked in this area, to offer an amendment to require the Federal agencies to make public the documents used to justify their decision to waive the normal requirements for open and fully competitive bidding. Think about that proposition. Heaven forbid we actually make public the documents that describe why we are not having competitive bidding. That strikes me as a very modest step when you are talking about billions of dollars' worth of taxpayer money.

But because there was an objection tonight, now we are not going to have the refusal to go forward with competi-

tive bidding even made public. It seems to me the way to make sure the taxpayers get the best value for their money and we have companies that compete for this work is to make sure that the standards for exempting contracts from competition are strict and rigorous and are designed to protect the needs of taxpayers and the national security.

Our amendment would have required agencies to make the justification and approval documents it used, if you were to have a contract exempt, public. And it would ensure we have full and vigorous competition and would have required other Federal agencies to make their justifications public before they entered into any contracts to rebuild Iraq.

I don't think the Senate wants to sit by and see these kinds of articles in our newspapers day after day: USAID Defends Secret Bids to Rebuild Iraq, Contracts to Rebuild Iraq Go To Chosen Few.

Unless we have the Wyden-Collins bipartisan amendment to open up this process, to promote competition, to have full disclosure, we are going to have articles like this in our newspapers day after day after day. It is going to contribute to the cynicism and frustration that taxpayers have in this country with respect to how their money will be used. It will be a long year. We are going to see these articles again and again.

I intend to come back to the Senate and stay at this. I wanted to make sure we would have a bipartisan amendment on this effort and worked very closely with the bipartisan leadership throughout the day. I thought we were there. I thought we had this amendment in a fashion acceptable to both sides. It is very regrettable it has not been accepted. I will continue to work with my colleagues. The taxpayers of this country ought to be angry about this kind of process used to let contracts.

Certainly, if there is a national security reason or some sort of contract that requires an expedited arrangement, that needs to be treated in a way that protects our national security. That is not what is going on here. What we are seeing is businesses in Missouri, Oregon, Maine, and across the country not being part of the privileged circle. A lot of businesses are going to be angry about this because they are not part of that hand-picked elite that will have a chance to get the contracts. What is going on now is bad for business, it is bad for competition, it is bad for taxpayers, and I think it is bad for national security. I don't think we will get the most for our money if we continue to have the contracts, as the papers say, go to a chosen few.

The Senate made a mistake. It is particularly unfortunate because two Senators worked for the last 48 hours in a bipartisan way to try to prevent the things we have seen in the last few days from happening again and again. It will happen again and again. That is

why I intend to come back to the Senate. It is unfortunate there was an objection tonight to our bipartisan legislation.

I look forward to seeing the Senate in the days ahead stand up again on a bipartisan basis for a process that is open, a process that promotes competition, that is good for taxpayers, good for business, and good for our country.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DANIEL PATRICK MOYNIHAN

Mr. WARNER. I join all who had the privilege to serve with our late colleague, Senator Patrick Moynihan. Of the 24 years I have been here, 22 were spent with him. While my heart has sadness, it is filled with joy for the recollections of a wonderful friendship and working relationship we had in the Senate.

We shared a deep and profound love for the U.S. Navy. He served from 1944 to 1947 and was a commissioned officer. I served from 1946 to 1947 as an enlisted man. Whenever we would meet, he would shout out, "Attention on deck," and require me to salute him as an enlisted man properly salutes an officer. Then he would turn around and salute me, as I was once Secretary of the Navy, and he was consequently, at that point in time, outranked.

That was the type of individual he was. He filled this Chamber with spirit, with joy, with erudition, and he spoke with eloquence. We shall miss our dear friend.

I recall specifically serving with him on the Committee on Environment and Public Works, of which he was chairman for a while. He had a great vision for the Nation's Capital. Some of the edifices we enjoy today would not have been had it not been for this great statesman. The landmarks would not be there had it not been for him. I am talking about the completion of the Federal Triangle. The capstone, of course, is the magnificent building today bearing the name of our President Ronald Reagan.

He was a driving force behind the completion of that series of Government buildings started in the 1930s, under the vision of Herbert Hoover and Andrew Mellon. They were great