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KBR Defendants Agree to Settle Kickback and False Claims Allegations

Kellogg Brown & Root Services Inc., headquartered in Houston, and three other companies have agreed to a settlement of $13.67 million to resolve a lawsuit seeking damages and penalties for alleged violations of the False Claims Act and the Anti-Kickback Act, and for breach of contract. The four named defendants are: Kellogg Brown & Root Services Inc., Kellogg Brown & Root Inc., Kellogg Brown & Root LLC, and Overseas Administration Services Ltd. (collectively KBR). The settlement amount includes a payment of $12 million by KBR, in addition to $1.67 million in contract restitution that KBR previously paid to the United States relating to the subcontracts at issue in the lawsuit.

The lawsuit concerned the Logistics Civil Augmentation Program (LOGCAP) III contract, under which KBR was required to provide logistics support to U.S. Army forces in Iraq, and subcontracts that KBR awarded to two local companies to perform work on its behalf: Subcontracts 11 and 39 to La Nouvelle Trading & Contracting Co. (La Nouvelle), and Subcontracts 167 and 190 to First Kuwaiti Trading & Contracting Co., aka First Kuwaiti Trading Co. (First Kuwaiti). The United States asserted that certain KBR employees responsible for awarding these subcontracts rigged the bidding process in favor of La Nouvelle and First Kuwaiti, and that, to reward this favorable treatment, principal officers from the foreign subcontractors paid kickbacks to the responsible KBR employees. The United States also alleged that the subcontract prices were inflated, and that after the subcontracts were awarded, KBR employees extended the duration of the subcontracts at the inflated prices. The United States further contends that KBR sought reimbursement of these inflated costs through vouchers submitted to the Army. As alleged in the lawsuit, this conduct violated the False Claims Act and the Anti-Kickback Act, and breached the LOGCAP III contract.

“Those who do business with the government have a responsibility to ensure that they are properly performing and billing under their government contracts,” said Principal Deputy Assistant Attorney General Brian M. Boynton, head of the Justice Department’s Civil Division. “This matter reflects the department’s commitment to hold accountable contractors that knowingly overcharge the government for inflated costs and that fail to take appropriate action to prevent their employees from enriching themselves at the public’s expense.”

“The Department of Defense – Office of Inspector General’s Defense Criminal Investigative Service (DCIS) and our law enforcement partners are steadfastly committed to holding contractors accountable when they abuse the trust of the military for financial gain,” said Acting Special Agent in Charge Gregory P. Shilling of the DCIS’s Southwest Field Office. “We will diligently investigate fraud perpetrated against the Department of Defense and the American taxpayer, regardless of the length of time it takes to ensure justice is served.”

“We are pleased with today’s settlement,” said Special Agent in Charge L. Scott Moreland of the U.S. Army Criminal Investigation Division (Army CID), Major Procurement Fraud Field Office. “Kickbacks and overcharges have an inherently corrosive effect and undermine the integrity of the procurement process; it is imperative that when someone contracts with the U.S. Army, they provide only their very best with no exceptions.”

More specifically, the settlement resolves allegations that a KBR employee entered into a kickback arrangement with the managing partner of First Kuwaiti, under which the KBR employee was to receive a kickback for every subcontract that he awarded to First Kuwaiti for the lease of trucks and trailers to transport fuel and refrigerated items into Iraq. The United States contends that, under the improper influence of this illegal arrangement, the KBR employee steered two truck-lease contracts (Subcontracts 167 and 190) to First Kuwaiti at higher prices than necessary to fulfill the Army's contract requirements, and that KBR later sought to justify the high awards based on criteria that federal law did not permit KBR to consider.

The settlement also resolves additional claims concerning these same subcontracts after they were awarded for the lease of trucks and refrigerated trailers. More specifically, KBR extended Subcontract 167 even though its employees knew that the leased equipment was no longer needed and had been returned to the subcontractor, billed the United States for this overpayment, and created false documents to justify the overpayment. KBR also extended Subcontract 190 for the continued lease of trucks to pull fuel tankers even though, the United States contends, its internal records showed that the vehicles had already been returned to First Kuwaiti, resulting in overcharges.

In addition, the United States contends that a second KBR employee rigged the bidding process for Subcontract 11, a subcontract for cleaning services at Camp Arifjan in Kuwait, so that the employee could justify awarding the subcontract to La Nouvelle. The KBR employee did this, the United States claims, with the intent to solicit kickbacks from La Nouvelle's managing partner, who paid to reward the KBR employee for the favorable treatment he provided. The United States alleges that these kickbacks were included in the prices that KBR charged to the Government.

Finally, the United States contends that a third KBR employee rigged the bidding process for Subcontract 39, a contract for the lease of fuel storage tankers at a military airport in Kuwait, and awarded the subcontract to La Nouvelle at an inflated price, which KBR subsequently extended. As a reward for this favorable treatment, the United States alleges that the managing partner of La Nouvelle later paid the KBR employee a kickback, which was included within the prices that KBR charged to the Government.

In 2021, following more than seven years of litigation, the U.S. District Court for the Southern District of Texas granted partial summary judgment to the United States on several of its False Claims Act and Anti-Kickback Act claims. This settlement resolves these allegations and other pending claims and issues, for which trial had been scheduled to commence on May 23. The lawsuit is captioned *United States ex rel. Conyers v. Kellogg Brown & Root, Inc.*, No. 4:06-cv-04024 (S.D. Tex.).

The resolution obtained in this matter was the result of efforts by the Justice Department's Civil Division, Commercial Litigation Branch, Fraud Section, with assistance from DCIS and the U.S. Army CID.

The United States' resolution in this matter follows a prior $51 million judgment in favor of the United States in a litigated proceeding before the Armed Services Board of Contract Appeals, concerning a larger overpayment that KBR made to First Kuwaiti under a separate subcontract in the Iraq Theater. Following a multi-week trial and appeal to the U.S. Court of Appeals for the Federal Circuit, that judgment became final in 2021.

This matter was handled by Fraud Section Attorneys Ashley N. Bailey, Elspeth A. England, Glenn P. Harris, Russell B. Kinner, Jeffrey A. McSorley, Michael M. Sawers and David W. Tyler.

The claims resolved by the settlement are allegations only and there has been no determination of liability.

Attachment(s):
Download KBR Settlement Agreement.pdf

Topic(s):
False Claims Act

Component(s):
Civil Division

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