United States Sues Houston-based KBR and Kuwaiti Subcontractor for False Claims on Contracts to House American Troops in Iraq

The United States has filed a civil complaint against Kellogg, Brown & Root Services Inc. (KBR) and First Kuwaiti Trading Company for submitting inflated claims for the delivery and installation of trailers to house troops in Iraq, the Justice Department announced today. KBR is headquartered in Houston. First Kuwaiti, a KBR subcontractor, is based in Kuwait.

KBR is the Army’s primary contractor for logistical support in Iraq. On Dec. 14, 2003, the Army awarded KBR the LOGCAP III contract, the third generation of contracts under the Army’s Logistics Civil Augmentation Program (LOGCAP) since the program’s inception in the 1980s. LOGCAP III required KBR to provide logistical support in the military theater whenever and wherever it was needed. Support included services such as transportation, dining services, facilities management, maintenance and living accommodations for United States and coalition forces. LOGCAP III was originally awarded to Brown and Root Services, a division of KBR. The United States has paid KBR tens of billions of dollars for logistical support services since awarding the contract.

The government’s complaint arises from the Bed Down Mission, a push to replace the tents used to house soldiers during the early days of the war with trailers, also called living containers. KBR performed many of the services required under LOGCAP III, including the Bed Down Mission, through foreign and domestic subcontractors. According to the complaint, KBR awarded a subcontract to First Kuwaiti on Oct. 16, 2003, to supply, transport and install 2,252 living containers at Camp Anaconda in Iraq for about $80 million. The government alleges that First Kuwaiti was required to complete delivery and installation of the trailers at Camp Anaconda by Dec. 15, 2003. The government further alleges that in July 2004, First Kuwaiti presented two claims to KBR contending that government-caused delays in providing military escorts for convoys into Iraq entitled the company to an increase in the contract price to cover its increased costs. According to the complaint, KBR agreed to pay First Kuwaiti an additional $48.8 million and passed that cost on to the United States.

The government’s complaint alleges that First Kuwaiti knowingly inflated its crane and truck costs, among other items, and misrepresented the cause of its delays. The complaint further alleges that KBR charged these costs to the United States knowing they were improper.

“We depend on companies like KBR to provide valuable noncombat services to our military such as housing and feeding our troops,” said Stuart F. Delery, Principal Deputy Assistant Attorney General for the Civil Division of the Department of Justice. “We will ensure that contractors live up to their promises, and are not permitted to profit at the expense of the taxpayers at home who are supporting our men and women in uniform.”

“When dealing with the government, just like dealing with anyone else, it’s important to give an honest account,” said Jim Lewis, U.S. Attorney for the Central District of Illinois. “The facts alleged in the complaint indicate that KBR and First Kuwaiti did not provide an honest accounting.”

The United States is suing KBR and First Kuwaiti under the False Claims Act. The act holds persons responsible for presenting, or causing to be presented, claims for government money or property they know are false. The statute entitles the government to recover three times its damages, plus a $5,500 to $11,000 civil penalty for each false claim.

The United States is also suing KBR under the antifraud section of the Contract Disputes Act and for breach of contract. The Contract Disputes Act establishes liability for contractors who certify that they are entitled to money under a contract, if any part of their claim is unsupported due to a misrepresentation of fact or fraud. Under the Contract Disputes Act, the government may recover the false and unsupported part of the claim, plus its costs of review.

This matter was investigated by the Commercial Litigation Branch of the Justice Department’s Civil Division; the U.S. Attorney’s Office for the Central District of Illinois; and the Defense Contract Audit
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