

Client Alert

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FCPA Watch: KBR and Halliburton Agree to Pay US\$402 Million Fine to Settle FCPA Charges in Nigerian Bribery Case**Areas of Interest****Foreign Corrupt Practices Act****Global Trade****Securities Enforcement & Investigations****White Collar Defense & Compliance****United States**

On February 6, 2009, former Halliburton subsidiary Kellogg Brown & Root LLC (KBR) was charged with violating the Foreign Corrupt Practices Act (FCPA) in connection with a decade-long, multi-national scheme to bribe Nigerian officials. (View the [criminal information](#).)

From 1994 until 2004, KBR, a Houston-based engineering and construction firm, was part of a joint venture with Japanese, French and Italian companies to design and build a liquefied natural gas production facility on Bonny Island, Nigeria. According to the criminal information, the joint venture was awarded four contracts valued at \$6 billion by the Nigerian government. The Department of Justice (DOJ) alleged that KBR paid \$182 million in bribes to Nigerian government officials in exchange for these

contracts. The bribes were allegedly facilitated by a Portuguese company that was owned by the joint venture, and which KBR created as a shell company in an attempt to insulate itself from FCPA liability. According to the criminal information, KBR caused the Portuguese shell company to enter into consulting contracts that provided for the payment of tens of millions of dollars of bribes disguised as "consulting fees" to Nigerian government officials in order to secure their assistance in winning contracts for the Bonny Island project.

KBR has been charged with four counts of violating § 78dd-2 of the FCPA (prohibited foreign trade practices by domestic concerns) and one count of conspiracy to violate the FCPA. Separately, Albert Jackson Stanley, the former CEO and Chairman of KBR, has also been charged with conspiracy to violate the FCPA and conspiracy to commit mail and wire fraud based on acts stemming from the same Nigerian bribery scheme. Stanley pleaded guilty on September 3, 2008, and has been cooperating with US government officials. He has not yet been sentenced, but faces up to seven years of imprisonment and a restitution payment of more than \$10 million.

Court documents filed on the same day as the criminal information indicate that KBR will soon plead guilty to the FCPA charges. (View the [Joint Motion to Waive Presentence Investigation](#).) KBR has agreed to a \$402 million fine, which it will pay in eight installments ending on October 1, 2010. In addition, KBR will be subject to a three-year term of organizational probation, during which KBR will have to retain an independent, court-appointed corporate monitor.

Although KBR is the entity that has agreed to pay the \$402 million fine, it appears that most or all of the fine will actually be paid by its former parent company, Halliburton, the Texas-based oilfield services corporation. When KBR separated from Halliburton in 2007, Halliburton agreed to indemnify KBR from fines or other penalties related to alleged or actual past FCPA violations. On January 26, 2009, Halliburton publicly announced that, pursuant to this indemnification agreement, it was negotiating with the government on behalf of KBR to settle the FCPA investigation stemming from the Bonny Island project in exchange for paying \$382 million in criminal fines and \$177 million in disgorgement.

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