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Department of Justice

U.S. Attorney's Office

Eastern District of Washington

FOR IMMEDIATE RELEASE

Friday, May 13, 2022

Construction Company Agrees to Pay \$2.8 Million to Resolve Allegations of Small Business Subcontracting Fraud

Spokane, Washington – Hensel Phelps Construction Company (Hensel Phelps), a large construction company headquartered in Greeley, Colorado, has agreed to pay \$2,804,110, to resolve allegations that it improperly manipulated a federal subcontract designated for a business owned and operated by a service-disabled veteran announced Vanessa R. Waldref, the United States Attorney for the Eastern District of Washington, and Carla B. Freedman, the United States Attorney for the Northern District of New York.

“Taking advantage of contracts intended for companies owned and operated by service-disabled veterans demonstrates a shocking disregard for fair competition and integrity in government contracting,” said United States Attorney Waldref. “We insisted not only that Hensel Phelps refund the government and pay a hefty penalty for its misconduct, but that it admit to its misconduct.”

Federal government contracts and subcontracts may be reserved, or “set aside,” for various categories of small businesses, such that only eligible small businesses in a particular socioeconomic category are eligible to bid on, receive, and perform the contracts. One such category is a service-disabled, veteran-owned small business (SDVOSB), which is reserved for small businesses owned, controlled, and operated by veterans of the United States military who incurred a disability in the course of their military service to the United States. Large businesses that perform on large federal prime contracts must develop and implement small business subcontracting plans designed to subcontract portions of the work to SDVOSBs and other types of small businesses.

Hensel Phelps is a general contractor and construction company that performs large scale private construction and public works projects nationwide, including in Washington and New York States. In 2011, the U.S. General Services Administration, which oversees construction of many federal buildings, awarded Hensel Phelps a contract to construct the Armed Forces Retirement Home’s New Commons/Health Care Building in Washington, D.C. The Armed Forces Retirement Home provides retirement communities and residential facilities for veterans. As a condition of the contract, Hensel Phelps was required to have and implement a small business subcontracting plan to provide contracting opportunities for SDVOSBs and other types of small businesses.

This case began in April 2022, when a whistleblower, a company known as Fox Unlimited Enterprises, LLP, filed a qui tam complaint under seal in the U.S. District Court for the Northern District of New York. When a whistleblower, or “relator,” files a qui tam complaint, the False Claims Act requires the United States to investigate the allegations and elect whether to intervene and take over the action or to decline to intervene and allow the relator to go forward with the litigation on behalf of the United States. The relator is generally able to then share in any recovery. Pursuant to the settlement agreement, the relator in this case will receive \$630,925 of the settlement.

The settlement was the result of a joint investigation conducted by the U.S. Attorney’s Office for the Eastern District of Washington; the U.S. Attorney’s Office for the Northern District of New York; the Defense Criminal Investigative Service, Syracuse Post of Duty; the General Services Administration Office of Inspector General, New York Field Investigations Office; the Department of Homeland Security Office of Inspector General, New York Field Office; the Air Force Office of Special Investigations, Procurement Fraud Detachment 6, Rome, New York; the U.S. Army Criminal Investigative Division, Syracuse Fraud Branch Office; the U.S. Department of Veterans Affairs Office of Inspector General, Spokane and Buffalo Resident Agencies; the Naval Criminal Investigative Service, Economic Crimes Resident Agency Northeast; and the Department of Transportation, Office of Inspector General, Northeastern Region.

Assistant United States Attorneys Dan Fruchter and Tyler H.L. Tornabene of the Eastern District of Washington and Adam J. Katz of the Northern District of New York handled this matter on behalf of the United States.

[4873-7571-2542_v1_hp_settlement_agreement_5-4-2022.pdf](#)

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