

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 74619 / April 1, 2015**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16466**

**In the Matter of**  
  
**KBR, Inc.,**  
  
**Respondent.**

**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against KBR, Inc. (“KBR” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, KBR has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

**III.**

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>1</sup> that:

**Respondent**

1. KBR, Inc. is a Delaware corporation headquartered in Houston, Texas. KBR’s common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and trades on the New York Stock Exchange. KBR files periodic reports, including reports on Forms 10-K and 10-Q, with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder.

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<sup>1</sup> The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

## Facts

### **A. Statutory and Regulatory Framework Protecting Whistleblowers**

2. The Dodd-Frank Wall Street Reform and Consumer Protection Act, enacted on July 21, 2010, amended the Exchange Act by adding Section 21F, “Whistleblower Incentives and Protection.” The congressional purpose underlying these provisions was “to encourage whistleblowers to report possible violations of the securities laws by providing financial incentives, prohibiting employment-related retaliation, and providing various confidentiality guarantees.” *See* “Implementation of the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934,” Release No. 34-64545, at p. 198 (Aug. 12, 2011) (the “Adopting Release”).

3. To fulfill this congressional purpose, the Commission adopted Rule 21F-17, which provides in relevant part:

- (a) No person may take any action to impede an individual from communicating directly with the Commission staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement . . . with respect to such communications.

Rule 21F-17 became effective on August 12, 2011.

### **B. KBR’s Confidentiality Statement**

4. As part of its compliance program, KBR regularly receives complaints and allegations from its employees of potential illegal or unethical conduct by KBR or its employees, including allegations of potential violations of the federal securities laws. KBR’s practice is to conduct internal investigations of these allegations. KBR investigators typically interview KBR employees (including the employees who originally lodged the complaint or allegation) as part of the internal investigations.

5. Prior to the promulgation of Rule 21F-17 and continuing into the time that Rule 21F-17 has been in effect, KBR has used a form confidentiality statement as part of these internal investigations. Although use of the form confidentiality statement is not required by KBR policy, the statement is included as an enclosure to the KBR Code of Business Conduct Investigation Procedures manual, and KBR investigators have had witnesses sign the statement at the start of an interview.

6. The form confidentiality statement that KBR has used before and since the SEC adopted Rule 21F-17 requires witnesses to agree to the following provisions:

I understand that in order to protect the integrity of this review, I am prohibited from discussing any particulars regarding this interview and the subject matter discussed during the interview, without the prior authorization of the Law Department. I understand that the unauthorized disclosure of information may be grounds for disciplinary action up to and including termination of employment.

7. Though the Commission is unaware of any instances in which (i) a KBR employee was in fact prevented from communicating directly with Commission Staff about potential securities law violations, or (ii) KBR took action to enforce the form confidentiality agreement or otherwise prevent such communications, the language found in the form confidentiality statement impedes such communications by prohibiting employees from discussing the substance of their interview without clearance from KBR's law department under penalty of disciplinary action including termination of employment. This language undermines the purpose of Section 21F and Rule 21F-17(a), which is to "encourage[e] individuals to report to the Commission." Adopting Release at p. 201.

### **Remedial Steps Taken By KBR**

8. KBR has amended its confidentiality statement to include the following statement:

Nothing in this Confidentiality Statement prohibits me from reporting possible violations of federal law or regulation to any governmental agency or entity, including but not limited to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, or making other disclosures that are protected under the whistleblower provisions of federal law or regulation. I do not need the prior authorization of the Law Department to make any such reports or disclosures and I am not required to notify the company that I have made such reports or disclosures.

### **Violation**

9. Through its conduct described above, KBR violated Rule 21F-17 under the Exchange Act.

### **Undertaking**

10. KBR has agreed to make reasonable efforts to contact KBR employees in the United States who signed the confidentiality statement from August 21, 2011 to the present, providing them with a copy of this Order and a statement that KBR does not require the employee to seek permission from the General Counsel of KBR before communicating with any governmental agency or entity, including but not limited to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, regarding possible violations of federal law or regulation. In determining whether to accept the Offer, the Commission has considered this undertaking.

11. KBR has agreed to certify, in writing, compliance with the undertaking set forth above. The certification shall identify the undertaking, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to David Peavler, Associate Regional Director, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

#### IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent KBR's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent KBR cease and desist from committing or causing any violations and any future violations of Rule 21F-17 of the Exchange Act;

B. Respondent shall, within thirty (30) days of the entry of this Order, pay a civil money penalty in the amount of \$130,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury in accordance with Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying KBR as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to David L. Peavler, Associate Regional Director, Fort Worth Regional Office, Division of Enforcement, Securities and Exchange Commission, 801 Cherry Street, Suite 1900, Fort Worth, Texas, 76102.

By the Commission.

Brent J. Fields  
Secretary