The U.S. Department of Justice (DOJ) has intervened in two False Claims Act cases pending in federal court in North Carolina. DOJ also revealed that settlements were reached with several California-based construction businesses and two individuals to partially resolve allegations under the False Claims Act that the defendants conspired to defraud the federal government in connection with military construction projects at Camp Lejeune in North Carolina and Camp Pendleton in California.

The two whistleblower lawsuits were filed in the United States District Court for the Eastern District of North Carolina against Frazier Masonry Corporation of Camarillo, California, several small business entities and individuals affiliated with that company, and other corporate entities that are not part of the current partial settlement. The lawsuits, filed in 2012 and 2013, alleged that the Frazier defendants conspired with prime contractors that had been awarded large construction contracts for projects at Camp Lejeune and Camp Pendleton. The complaints alleged that the defendants violated the False Claims Act by falsely certifying that qualified disadvantaged small businesses had performed the subcontracted masonry work. The contractors had certified that they would comply with a Subcontracting Plan, which earmarked certain of the subcontracts to go to legitimate disadvantaged small businesses. Instead of complying with that provision, the defendants contracted with businesses that were owned, controlled, or were affiliated with Frazier Masonry - a large business entity - to act as the masonry subcontractor. The subcontracts for masonry work were then performed by Frazier Masonry instead.

The Small Business Act and Federal Acquisition Regulations disqualify small businesses that are owned, controlled, or are affiliated with large businesses from performing subcontracts targeted for small, disadvantaged business enterprises. The complaint alleged that the fraud perpetrated by the Frazier defendants denied legitimate small businesses the opportunity to win the subcontracts. To resolve the whistleblower cases, the Frazier defendants agreed to pay nearly $1.9 million to the federal government. The lawsuits represent an effort to combat Small Business Administration fraud through the use of “sham” small businesses, a type fraud that has been targeted for years but with only mixed success.

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