

Post-Hearing Questions for the Record

Submitted to

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From Senator McCaskill

**“FOOD SERVICE MANAGEMENT CONTRACTS: ARE CONTRACTORS
OVERCHARGING THE GOVERNMENT?”**

Wednesday, October 5, 2011, 2:00 P.M.

United States Senate, Subcommittee on Contracting Oversight,

Committee on Homeland Security and Governmental Affairs

1. To your knowledge, is Defense Logistics Agency (DLA) making progress on correcting its mistakes with the prime vendor program? Does it have the tools to succeed?

DLA is making limited progress. DLA’s internal study, which I described in my testimony, represented a first step toward identifying what needed fixing. If it did a credible follow-up study, describing progress but also identifying what had not yet been fully fixed, that would represent further progress.

I had some suggestions in my prepared testimony for further tools to be given by Congress to DLA. These include increasing the visibility of subcontractors and their dealings with the prime vendor contractor; strengthening DLA’s weak oversight; keeping government standards about matters such as rebates and discounts above “commercial practice.” There are further details on these suggestions in my prepared testimony, and I stand ready to cooperate with the Committee if it wants to flesh any of them out for further consideration.

2. From the complaint filed in the Public Warehousing Company (PWC) fraud case, we know that U.S. companies were involved in the scheme. How should we view their role?

These U.S. companies are a combination of “understandable” and “bad.” Take these two combined aspects separately. The indictment indicates that their cooperation in PWC’s scheme was coerced from them, by PWC’s threat, and by their own fear, of losing business if they did not cooperate in the scheme for putting rebates belonging to the taxpayer into PWC’s pocket. That means they can claim they were, to some extent, extortion victims. On the other hand, the indictment indicates that not everyone went along, and that the companies that went along did so in part from the greedy motive of sharing in the lucrative flow of business. That was “bad” of them.

Beyond the question of how to view them in the past, is the question of how to view similar companies in the future. Unfortunately, the same mix of fear and greed that drew them into cooperating with PWC may draw them into cooperating with such schemes in the future. Action by DLA and Congress must change the visibility and transparency of these companies' transactions so that neither fear nor greed can persuade them to join in such schemes in the future.

3. Many food service management companies use their own in-house food distributors. Should this make us more or less cautious in our oversight of their rebate practices?

I do not know the industry well enough to answer this authoritatively. Perhaps the vertical integration of such companies means that they can have all-inclusive charges, reducing the possibility of shifting charges around or taking in mislabeled rebates with the help of other food distribution firms. On the other hand, perhaps the vertical integration destroys some of the visibility so that charges can be shifted around within the company to move them from inclusion in all-inclusive charges to the kind of charges that are separately billed. On balance, it is an aspect that is worrisome. If the top management of the company decides to overcharge the government, they can do so without the cooperation of any external firm. PWC showed us that it is far from impossible that the top management of a company may not be trustworthy.