



Department of Justice

UNITED STATES ATTORNEY'S OFFICE
Northern District of Georgia

FOR IMMEDIATE RELEASE

11/16/09

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**KUWAITI COMPANY "PWC" INDICTED FOR
MASSIVE OVERCHARGING OF U.S. FOR SOLDIERS' FOOD**

***Company Received over \$8.5 Billion for Food Supply Contracts;
Now Indicted for Conspiracy and Major Fraud***

Atlanta, GA - PUBLIC WAREHOUSING COMPANY, K.S.C., ("PWC") a logistics company organized under the laws of the Nation of Kuwait has been indicted by a federal grand jury on multiple charges of conspiracy to defraud the United States, committing major fraud against the United States, making false statements, submitting false claims and wire fraud. All of the charges concern multi-billion dollar contracts issued by the Department of Defense for feeding American troops in Iraq, Kuwait and Jordan. PWC is scheduled for an initial appearance and arraignment before United States Magistrate Judge Janet F. King in Atlanta at 9:30 a.m. on November 20, 2009. A related civil action has also been filed against PWC.

Criminal Chief F. Gentry Shelnett, who is currently serving as the Acting United States Attorney on this case, said, "This indictment is the result of a multi-year probe into abuses in vendor contracts in the Middle East involving the illegal inflation of prices in contracts to feed our troops. The indictment alleges PWC submitted false information and manipulated prices to overcharge for food. Others who have engaged in similar conduct should beware. This indictment is only the first step. Our investigation of entities and persons who have defrauded the United States and our military is ongoing."

In Arlington, Virginia, Sharon E. Woods, Director, Defense Criminal Investigative Service said, "The Pentagon's Defense Criminal Investigative Service will aggressively pursue any and all allegations of fraud and abuse perpetrated on the U.S. Department of Defense. Our constant focus is on ensuring taxpayer dollars are not wasted or stolen, and on protecting America's warfighters."

FBI Atlanta Special Agent in Charge Greg Jones said, “The FBI is well-suited to the task of investigating such extensive government fraud cases. It is very unfortunate that established companies that have contracted to do business with the U.S. Government would abuse this relationship by falsifying and overcharging the billing to the government. It is more unfortunate that this company chose to do so when these funds are in such demand for other support and equipping of our U.S. troops in various combat zones around the world. We are committed to continuing the necessary work with our law enforcement and military partners in pursuing this and other such acts of government or defense contractor fraud.”

Brigadier General Rodney Johnson, the commander of U.S. Army Criminal Investigation Division, said, “These indictments are the culmination of the steadfast dedication and professionalism of our Special Agents, the FBI and other law enforcement counterparts. I am proud that U.S. Army CID could play a major role in bringing this case to justice. The defendants, tempted by monetary gain, betrayed the trust invested in them by the U.S. Army and now they must face the consequences.”

The indictment charges PWC in six counts. Count One charges PWC and unidentified co-conspirators with conspiracy to defraud the United States, including committing major fraud against the United States and making and submitting false statements to the United States. Count Two charges PWC and unidentified coconspirators with a second conspiracy to defraud the United States, including committing major fraud against the United States, making and submitting false, fictitious, or fraudulent claims to the United States, making false statements to the United States and wire fraud. Counts Three and Four are substantive major fraud charges brought against PWC, and Counts Five and Six are substantive wire fraud charges.

According to the charges and other information presented in court: PWC offered proposals and was awarded a Prime Vendor contract on May 28, 2003 (“PV-I”), on February 16, 2005 (Bridge), and on July 7, 2005 (“PV-II”). Each of these contracts was a prime vendor contract for the provision of food and other items to military customers in the Middle East, including Iraq, Kuwait and Jordan. PWC has been paid over \$8.5 billion for the contracts.

All three contracts used the same pricing formula: Delivered Price + Fixed Distribution Fee = Unit Price. The “Delivered Price” (also called the product price or landed cost) was the manufacturer/supplier’s actual invoice price. The Distribution Fee included all expenses that PWC incurred in performing the prime vendor contracts, as well as its profit, and represented the only amount that PWC contractually was allowed to add to the Delivered Price to arrive at a product’s Unit Price.

The conspiracy alleged in Count One is based upon PWC allegedly providing false invoices and statements to the Defense Supply Center Philadelphia (DSCP), a troop

support center component of the Defense Logistics Agency, which is a logistics combat support agency within the Department of Defense. DSCP is the center for managing the purchase and acquisition of four major commodities, including subsistence/garrison feeding, used to support the U.S. military throughout the world.

In Count One, PWC, along with others, is charged with conspiring to submit false information and documents to DSCP with regard to the Delivered Prices of Market Basket items as part of its proposal for the award of PV-II. It was a required part of the proposal process for the award of a PV-II that each offeror provide DSCP with a Delivered Price and proposed Distribution Fees for a specified list of Market Basket items (in this case 70 items). While Delivered Prices may change over time (the contract allows Delivered Prices to change every 2 weeks), evaluation of the Market Basket Delivered Prices enabled DSCP to compare and evaluate offerors on the criteria of Delivered Price at one point in time. It is alleged in Count One that PWC's submission of false Market Basket Pricing information was done to impair and pervert the functioning of DSCP in its evaluation of proposals, and later to conceal the use of such false statements and documents.

The conspiracy alleged in Count Two is based upon PWC's allegedly fraudulent overbilling of the United States through multiple means. The multiple means alleged include the following:

- The first means alleged in Count Two is that PWC allegedly intentionally failed to purchase less expensive food items based upon a vendor's failure to provide PWC with a discount.

- The second means alleged in Count Two relates to PWC's alleged fraudulent overbilling of the United States by having vendors use a consolidation facility and placing the consolidation costs plus a PWC profit into the Delivered Price paid by the United States contrary to the prime vendor contracts.

- The third means alleged in Count Two relates to PWC's knowing manipulation and inflation of Delivered Prices. Examples of this manipulation include PWC's knowing participation in structuring billings from vendors so that non-product costs that were supposed to be paid by PWC, instead were hidden in the Delivered Price of the products, resulting in the submission of inflated and fraudulent claims to the United States. Count Two also alleges that PWC received product rebates, allowances, and discounts that PWC did not return to the United States as required by the prime vendor contracts.

Count Two also alleges that PWC insisted that vendors provide a discount to it and label that discount something other than what it was to facilitate PWC not passing the discount on to the United States. Examples of this fraudulent conduct noted in the

indictment include:

- asking a vendor for a “prompt payment discount ” in exchange for making that vendor a “preferred customer” and then providing that vendor with more business because of the discount.

- asking a vendor for a “prompt payment discount” and when the vendor refused, instead securing a discount that was labeled a “damage allowance.”

- asking a vendor to increase its “prompt payment discount” and when the vendor agreed to do so, providing the vendor with more business.

- using a vendor’s volume-based growth incentive program to pay consolidator costs that should have been paid by PWC and to give PWC a “prompt payment discount,” rather than returning the growth incentive to the United States or reducing the prices to the United States.

Count Two also charges that PWC fraudulently inflated the Distribution Fees that it billed to the United States by asking vendors to manipulate the way products were packed, thus enabling PWC to bill the United States twice as much as it should have.

Count Two alleges that as part of PWC’s fraudulent conduct, its related Kuwaiti subcontractor T.S.C., with PWC’s knowledge and approval, allegedly inflated or “marked-up” the prices of local market ready items and fresh fruit and vegetables to amounts that exceeded even retail prices and then after PWC paid T.S.C.’s inflated invoice in total, kicked a part of the T.S.C. mark-up back to PWC in the form of a 10% rebate, none of which was returned to the United States.

Counts Three and Four charge substantive counts of major fraud against the United States alleging schemes to defraud the United States and obtain money and property from the United States by means of false or fraudulent promises and representations with respect to “PV-I” and “PV-II,” both of which are prime contracts with values of at least \$1,000,000.

Specifically, Count Three charges PWC with a fraudulent scheme to persuade a vendor located in Rome, Georgia, to reduce the pack sizes of products that it sold to PWC, thus enabling PWC to bill the United States for twice as many packs of products and thus collect twice as much in Distribution Fees for the same amount of product.

Count Four alleges a fraudulent scheme by PWC in which it encouraged a vendor with facilities in Conyers, Georgia to conceal consolidation fees that should have been paid by PWC in the prices of the products that it sold to PWC, thus resulting in inflated Delivered Prices being billed to the United States.

Counts Five and Six charge substantive counts of wire fraud, relating to the use of interstate wires with respect to the fraudulent scheme described in Count Four involving the company with facilities in Conyers, Georgia.

As a corporate defendant, PWC faces a sentence of probation and a fine of up to twice the pecuniary gain realized by PWC, or twice the loss to the United States.

This is a continuing investigation. Anyone with information that may be useful to the investigation, including but not limited to any aspect of the provision of services and billing to the United States by PWC pursuant to the PV food contracts, should contact the Department of Defense via the Department of Defense Hotline, toll-free, at (800) 424-9098, via e-mail at hotline@dodig.mil, or on the internet at <http://www.dodig.mil/hotline>. In addition, persons may call the FBI Atlanta Field Office at (404) 679-9000.

Members of the public are reminded that the indictment contains only allegations. A defendant is presumed innocent of the charges, and it will be the government's burden to prove a defendant's guilt beyond a reasonable doubt at trial.

This case is being investigated by a joint investigation team of Special Agents of Defense Criminal Investigative Service, Federal Bureau of Investigation, Army Criminal Investigation Command (Army CID), auditors from the Defense Contract Audit Agency, and the Department of Defense, Office of the Inspector General.

Assistant United States Attorney Barbara E. Nelan and Special Assistant United States Attorney Richard E. Reed are prosecuting the case. Assistance in this case is also being provided by Counsel with the Department of Justice's National Procurement Fraud Task Force and the Office of International Affairs.

For further information please contact F. Gentry Shelnett, Criminal Chief, or Charysse L. Alexander, Executive Assistant United States Attorney, through Patrick Crosby, Public Affairs Officer, U.S. Attorney's Office, at (404) 581-6016. The Internet address for the HomePage for the U.S. Attorney's Office for the Northern District of Georgia is www.usdoj.gov/usao/gan.