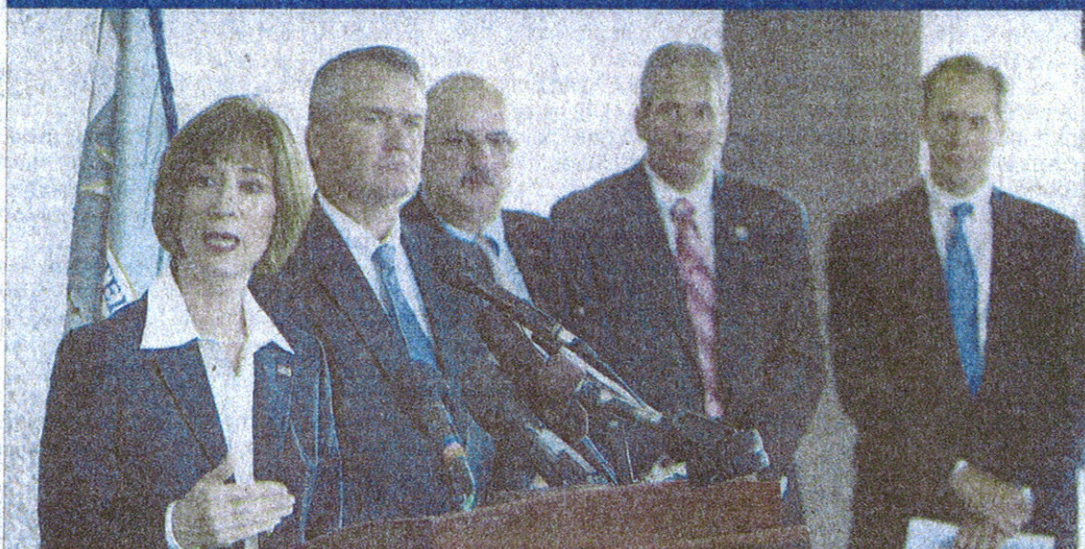


# The Atlanta Journal-Constitution

**Councilman  
revives idea of  
4 a.m. 'last call'**

**Tech-UGA  
kickoff set for  
8 p.m. Nov. 28**

## Defense Department overcharged



Assistant U.S. Attorney prosecutor Barbara Nelan speaks at Monday's news conference at the Richard B. Russell Federal Building as Gentry Shellnutt (from left), Thomas Wilkin II, Christopher Amato and Paul Fike listen. Nelan indicated the total fraud could climb substantially higher. John Spink/jspink@ajc.com

## Food contractor indicted for fraud

**U.S. prosecutors in Atlanta say amount exceeded \$68 million.**

By **Steve Visser**  
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A company that supplies food to American troops in Iraq has been indicted on allegations that it overcharged the government more than \$68 million, U.S. prosecutors said in Atlanta Monday.

Assistant U.S. Attorney Barbara Nelan said Public Warehousing Co., a Kuwait-based enterprise that now does business as Agility, has carried out a com-

plicated fraud that came to the government's attention in 2005 through a whistle-blower lawsuit in federal court in Atlanta.

She would not say whether she expected indictments of company officials but she indicated the total fraud amount could climb substantially higher. "It is an ongoing investigation," Nelan said.

Agility, the principal provider of food to the U.S. military in Iraq and Kuwait since 2003, said in a statement Monday it had been trying to negotiate a "mutually agreeable resolution to this contract dispute."

"The company has long cooperated with government reviews, inspections, audits and inqui-

ries necessary to ensure taxpayer dollars are being spent appropriately," the statement said.

Agility, which still has the contract to deliver food to troops in Iraq, Kuwait and Jordan through 2010, has been paid \$8.5 billion in contracts since 2003, Nelan said. About \$7.6 billion has been paid to the company since 2005, when the fraud investigation began.

Nelan, the lead prosecutor, said the company "grossly overcharged" the Defense Department for the delivery of foodstuffs and other goods. The fraud included inflated charges for delivery and the company keeping

**Fraud** continued on A20



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## Amount exceeds \$68 million

### Fraud

continued from A1

rebates from food supplies that should have been given to the Defense Department, she said.

In one instance, the indictment says, Public Warehousing Co. asked a vendor in Rome, Ga., 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."

The indictment, handed down by federal grand jury Nov. 9, did not identify the company in Rome.

The case came to light when a whistle-blower, Kamal Mustafa Al-Sultan, filed a civil complaint in 2005 against Public Warehousing Co. and five other companies or individuals. In an amended civil complaint filed in October, Al-Sultan said the defendants improperly inflated costs to the government generally by 30 to 70 percent. In some cases, the lawsuit said, costs were inflated more than 300 percent.

"The United States government

**"The fact that there is an indictment here suggests that the company is not looking to work out any kind of agreement."**

#### Kent Alexander

Former U.S. attorney, now general counsel for Emory University

has been damaged in an amount exceeding [\$1 billion] to date, and the fraud continues unabated," the lawsuit said in its October filing.

Neil Gordon, an investigator with the Washington-based Project On Government Oversight, a watchdog group, said it was common for the government to continue contracts with companies that have been indicted for fraud, especially in war zones, often out of necessity. "Until there is a conviction, the contractors are free to work with the government," he said. "We're talking about contracting in a war zone and the bottom line is you have to get the goods and services delivered. You can't disrupt the services."

He said the government also would have to be able to contract with a company that is licensed to do business in Kuwait, where companies need to get permission of the monarch.

Al-Sultan's civil lawyer, Raymond Moss, said his client will be entitled to recover 15 to 30 percent of the cost of the fraud as his reward for revealing it under the whistle-blower law. Jerry Froelich, a criminal defense lawyer who represents Al-Sultan in his negotiations with prosecutors, declined to comment on why his client chose to file the lawsuit in Atlanta or what his role was with the companies involved.

Defense lawyers, a former prosecutor and watchdog groups said the indictment suggested that the company was playing hardball with the government and refusing to cooperate with prosecutors and hand up specific individuals.

"It would appear on the surface that the government and the company are fighting and they have not resolved the matter," said Steve Sadow, a prominent defense lawyer. "It is not unusual for individuals to be charged later but it is typically after the company has come to terms with the government on its own situation."

Former U.S. Attorney Kent Alexander agreed. "The fact that there is an indictment here suggests that the company is not looking to work out any kind of agreement," said Alexander, now general counsel for Emory University.