

Testimony of:

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To the Council of the District of Columbia:

Committee on Education, David Grosso, Chair

Regarding the Oversight Roundtable on

Proposed Contract CA21-443 between DC Public Schools and DC Central Kitchen &

Proposed Contract CA21-446 between DC Public Schools and SodexoMagic, LLC

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Good morning, Councilmembers. Chairperson Grosso, thank you for responding to the will of the people and scheduling this hearing today.

I am a member of a community organization called the DC School Food Project. This organization is an outgrowth of an official body within DCPS called the Friends and Family Advisory Committee, which was assembled in 2011 in the Office of Food and Nutrition Services. I am also a parent of two Tyler Tigers, including one who will matriculate at Stuart-Hobson in the fall. Finally, I am a sociologist at George Washington University who studies school food programs in North and South America.

What our organization, the DC School Food Project, would like to be doing is working with students in schools, providing volunteer support for amazing programs like FoodPrints and the DC Farm to School Network. We would like to be working to publicize the wins that we've had with school food in this city, and helping to ensure increased access to school meals, especially among the most vulnerable populations.

What we find ourselves doing instead is fighting the constant battle to make sure that the food service management companies the city hires are doing their job. Let me say that we have been very unsuccessful in this battle. As you know, Chartwells-Thomson Hospitality just spent most of a decade bilking this city, pocketing over \$14 million beyond their contract price in 2009, over \$10 million the next

year, another \$10 million the next year, and over \$14 million in 2012. They settled a \$19 million whistleblower suit and were implicated in the wrongful termination suit of DCPS's last Food Services Director. And yet it's only now in 2016 that are we finally parting ways.

So what company has DCPS chosen to replace Chartwells? Who do we want to give the next \$35 million contract to? Sodexo. A company with \$22 billion in revenue last year. A company that has a remarkable record of poor service, bad food, racial discrimination, union busting, and more. And this company wants to sub-contract with another company, Revolution Foods, which has received multiple notices to cure from DCPS for violations including insufficient number of meals, late meal service, missing food, spoiled food, accounting problems, noncompliance with the Healthy Schools Act, living wage violations, background check problems, inadequate staffing, and more.

In my written testimony, I would like to focus on the issue of rebates and nutrition in the proposed contract; the important ways the proposed contract differs from the RFP; and the major questions our organization has about transparency and potential ethical lapses in this procurement process. It is our opinion that this contract does not represent, in any meaningful way, the will or the needs of the community it is meant to serve.

Before I continue I would like to say we are thrilled that DCPS has proposed a contract with DC Central Kitchen. This is, hands-down, one of the best organizations in this city, with one of the greatest set of school meal practices in the country.

But now let me turn to the proposed contract with SodexoMagic and its subcontractor, Revolution Foods.

NUTRITION & REBATES

It is important to understand how the language of the contract is related to the nutrition of the meals that will be served. And the language I'm talking about is specifically about the rebates that companies like Sodexo receive from other huge food companies. So let me start from step one. DCPS negotiated a contract with Sodexo that includes the following language (Section 3.22.11.5.1 of Contract):

Section 3.22.11.5.1: "The contractor retains the rebate values associated with the firm fixed price portion of the contract."

This is a really stunning development. It is very important to note that this language was not in the RFP. This is something Sodexo added to the contract during the negotiation phase—a phase that occurs completely outside the public eye with no community input or opportunity for public oversight—and *DCPS agreed to it*. What this says is that Sodexo will retain all rebates associated with the meals they serve.

It is accepted practice around the country that any rebates a food service management company receives *must be* passed on to the schools it serves. This may be a good time to mention that Sodexo

settled an \$18 million lawsuit in New York State just six years ago because they did NOT pass along these rebates to the schools there. We are not talking about a few pennies of rebates here. We're talking about many millions of dollars – dollars that I would think our city could find a better way to spend than to hand over to a multibillion-dollar company with no questions asked. As Governor Cuomo put it when this happened in New York: "This company cut sweetheart deals with suppliers and then denied taxpayer-supported schools the benefits."¹

In New Jersey, a recent study discovered that two companies—Sodexo and Chartwells—have long overcharged school districts in the form of what the food service industry calls "indirect income," or "profits in addition to its fee that the client doesn't know exists."² One of the sources of indirect income includes the savings from high-volume purchasing rebates. The companies engineer flimsy reasons why they fail to pass these rebates along to the schools that are supposed to receive them. They typically say the accounting is just too difficult. The New Jersey study found that these are not accidental accounting errors. Rather, they are well-known business practices designed to extract more profit out of school meal contracts like the District's.

So let me make sure it is perfectly clear what is going on here in the District. Sodexo will use a Group Purchasing Organization (GPO) called Entegra Procurement Services to make amazing deals with food suppliers like Tysons Chicken, Hormel, and ConAgra. And while they used to hide the fact that they held on to the rebates that these companies pass along to them, they have now figured out that they should get it right in the contract – right up front, before our eyes. Sodexo is telling us—and DCPS has agreed—that Sodexo will hold on to any rebates it receives. I have not seen an example of any other school district where the food service management company has been able to work this language right into the contract. If Council approves this contract, DC will—as far as I know—be the first to allow it.

Now, let me bring this back around to explain what this has to do with nutrition. This seems like an egregious matter of money, but it is also about the food the students in our schools will eat. When the RFP was released in December—and in opposition to a great deal of the community input that DCPS claims it solicited and integrated—DCPS eliminated some of the most beneficial nutrition mandates that had previously been in place. The previous Food Services Director—the one who was fired—scoured best practices and determined that:

- Meat may not contain hormones, antibiotics, Genetically Modified Organism(s), unnatural feeds or have been subjected to irradiation or ammonia in the processing phase;
- All meat and meat products must be sound, sanitary and free of objectionable odors or signs of deterioration;
- Processed fish must not contain more than five hundred milligrams of sodium per serving;
- Eggs must be USDA Grade A;
- Beef will not be served more than once per week;

¹ Bruske, Ed. Reported on Grist, July 22, 2010.

² MacDermott, Tom. 2010. "Hard to Swallow." <http://www.inthepublicinterest.org/wp-content/uploads/Hard-to-Swallow.pdf>

- On average throughout the year, 20 percent of all food ingredients and products used in the making of the meals must be either locally-grown and/or locally-processed;
- Dark green leafy and orange vegetables must be used weekly.

The current RFP dropped all these. So if we just take the example of meat, for a minute, let's pause to consider what the CDC (the Centers for Disease Control) say about antibiotics and meat:

“Antibiotics must be used judiciously in humans and animals because both uses contribute to the emergence, persistence, and spread of resistant bacteria. Resistant bacteria in food-producing animals are of particular concern. Food animals serve as a reservoir of resistant pathogens and resistance mechanisms that can directly or indirectly result in antibiotic resistant infections in humans. For example, resistant bacteria may be transmitted to humans through the foods we eat.”³

Another organization argues that

“the threat to public health from the overuse of antibiotics in food animals is real and growing. . . Numerous health organizations, including the American Medical Association, American Public Health Association, Infectious Disease Society of America, and the World Health Organization, agree and have called for significant reductions in the use of antibiotics for animal food production.”⁴

This is just one issue about meat. And despite this scientific consensus about the harm of antibiotics in meat, DCPS chose to eliminate the requirement for antibiotic-free meat in its RFP.

Now, let me explain what the antibiotics and the rebates have to do with each other. Sodexo makes excellent deals for itself with meat producers Tysons. In part because there is so much consumer pressure now for antibiotic-free meat, the stuff that's treated with antibiotics is not as popular on the market anymore. In other words, it's cheaper. So Sodexo, being the good profit-minded corporation it is, can cut a deal with any of these meat companies to (1) buy the cheapest meat they have available and (2) get a big rebate on top of it. And what DCPS just did to sweeten the pot for Sodexo is, they've agreed to language in the contract to allow Sodexo to keep those rebates for itself.

So we've gutted the nutritional requirements. We've handed over millions of dollars in rebates to a multinational corporation. And where, exactly, are the kids in this? Who is looking out for them? One might think it would be DCPS. And DCPS claims it has solicited community input to guide it as it looks out for our kids. And yet, if Council approves this contract, for the next year, and then undoubtedly for option year numbers 1, 2, and however many more Sodexo wants because these contracts will always come up for consideration in June and July and have to be rushed through, our kids will be served harmful, cheap meat simply so that Sodexo can make more money.

³ <http://www.cdc.gov/narms/animals.html>

⁴ <http://consumersunion.org/news/the-overuse-of-antibiotics-in-food-animals-threatens-public-health-2/>

I wish the situation were not as messed up as that. But it is. And that is just one tiny example of what is going on here.

WASTE & STUDENT ENGAGEMENT

Let me point you to another part of the RFP that has been altered in the proposed contract. Sodexo has negotiated to remove any accounting of waste from their responsibilities. In particular, the following clause was eliminated:

Section C.1.4.1.2 - "The Contractor(s) shall include quarterly waste studies to further determine consumption rates and relationships to satisfaction."

Food waste is a major problem, and as you know, if food tastes good kids won't waste it. I see kids eat healthy food all the time, because it's delicious. It may require some positive reinforcement from food service workers, as DC Central Kitchen knows very well. It requires their employer to value this kind of work, and be willing to dedicate resources to it. Instead, DCPS has offered Sodexo a contract where they don't have to account for waste at all. The total involvement Sodexo has to have in helping shape students' tastes toward healthy options is two throw-away surveys a year. I am a social scientist and I have seen the sort of instruments DCPS and its multinational vendors have used to gauge student satisfaction. Let me put it mildly and say they don't pass muster. So, the contract that you are now in the position to approve or disapprove has gutted the vendor's responsibilities for engaging with students and completely dropped any assessment of how much food is wasted. I wonder if this will lead to tasty food or not.

DCPS: NOT EFFECTIVE, NOT CAPABLE OF OVERSIGHT, NOT TRANSPARENT, NOT ACCOUNTABLE

I have to move now to something I am even more uncomfortable with than all of this, and that is the level of trustworthiness and effectiveness of our public servants at DCPS. I have been watching for about seven years, and unfortunately, DCPS has not proved that it, as an organization, is capable of administering this contract effectively. Given its troubles with Chartwells, and the problematic contract it has proposed here, DCPS has inspired little confidence that it can handle its independent procurement authority.

The contract with Chartwells was bad enough, but the one you have to approve or disapprove right now is riddled with problem. One of these problems is that we're not at all clear how a vendor that has proposed much higher prices, but has not agreed to maintain a unionized labor force or high nutrition standards, has managed to emerge as the winner of the contracts for 100 schools in this city. In September last year, DCPS officials sat right here and assured this committee that they would split the District into clusters and encourage competition so that no one, single mega-company would dominate the way Chartwells has. And yet here we are. Again. I don't know if it is related or not that the outgoing Chancellor for DCPS was found to have solicited funds from Sodexo, or that Sodexo did in fact

contribute money twice to an event the Chancellor supports. I do know that our organization, the DC School Food Project, initiated a preliminary investigation into this entire procurement process, and the Chancellor's involvement in it, with the DC Bureau of Ethics and Government Accountability. It troubled us to see evidence of Chancellor Henderson's multiple meetings with a key SodexoMagic owner and the company's head chef just months before the RFP was released.

Further, we have been gravely concerned about the near-complete lack of transparency in this entire procurement process. When you consider all the points in the process when the public has been shut out, it is quite remarkable.

(1) We do not have the robust student engagement and input. At the September 2015 hearing, Mr. Beers and Mr. Jaber from DCPS emphasized their terrific School Ambassador Program, where there are supposed to be two students from each school providing feedback to them. As I mentioned, I have two children at Tyler Elementary and neither of them has ever heard of the School Ambassador Program. I reached out to the Tyler community through the school listserv and asked if anybody knows who the two Ambassadors for Tyler are, and nobody knows. I contacted the Principal of the school to find out who they are, and he has never heard of the program. And I even reached out to the representative from Revolution Foods who works with Tyler to find out who they are, and she did not respond. Even if each school *does* actually have Ambassadors, we have heard nothing to indicate exactly how the feedback these Ambassadors have provided has affected the practices of the Office of Food and Nutrition Services or its vendors. Has DCPS changed what they serve as a result of this supposed feedback? Have they increased meal participation? How—specifically—is the input used?

(2) We no longer have a Friends and Family Advisory Committee, which can provide regular input and scrutiny to the OFNS.

(3) We have not had a regular series of community meetings in each ward, and the single round of community meetings DCPS held in 2015 were very poorly scheduled, coordinated, and advertised – in some cases, they were announced the night before they occurred. Miraculously, small groups of parents and community members were still able to attend each of these meetings. But again, DCPS has not been at all clear about what feedback they received and how they worked this feedback into the current RFP. It is not enough to simply say, "We held meetings." We are the community they serve, and they need to be clear about what is being done as a result of hearing our input.

(4) We asked many times to part of the construction of the RFP last fall, or even to have a designated person to observe the process, but were denied. We asked OFNS to specify *how* and *in what specific ways* community input was being incorporated into the RFP. We were told our questions could not be answered.

(5) We have not even been able to find out who was on the selection committee within DCPS or how much influence the Chancellor had in the selection. We asked to observe the selection

committee deliberations and were denied. We asked to be represented on the committee and were denied.

(6) Both before and after the contract was released we asked to see the scores of each bidder and were denied.

(7) We asked for any Notices to Cure that have been issued to Revolution Foods, the subcontractor chosen by SodexoMagic in this contract. We were told that we would have to submit a FOIA to obtain them.

So we have been locked out of this entire process and now, we are at this moment where everybody has assured us, this is where you get to have your say. But the fact of the matter is, a \$35.4 million contract was negotiated with a \$22 billion company behind closed doors without any public scrutiny. The contract that was negotiated is substantially different from the language of the RFP in many important ways. The public had little influence on the RFP to begin with, but if it is our best hope, if it's DCPS's best representation of the will of the community, and even *it* is not being honored, we have a big problem on our hands. More to the point, esteemed Councilmembers, you now have a huge problem on your hands, because **this contract simply cannot be approved**. At worst, it is fraudulent in the ways it does not reflect the RFP. At best, it is a horrible deal for the city of DC, and more importantly, for the poorest and most vulnerable children in this city who depend on us.

You have a contract before you that is the result of a backroom deal to curtail student engagement, eliminate waste surveys, erode labor protections, remove important assessment criteria, and avoid any fine schedule that would be in place when—not if, but when—Sodexo violates even the juicy terms it has negotiated for itself.

I dearly hope that Council will not approve this contract, and that on the basis of the egregious process through which it has been proposed, Council will work to revoke the independent procurement authority DCPS has enjoyed and abused for so long.

Thank you.