

ii. Tends to attribute the failure of the Mississippi Beef Processor Project to Richard Hall, Sean Carothers, Robin Williams, or any other individual other than a Defendant;

iii. Tends to show that The Facility Group was chosen to complete the Mississippi Beef Processor Project as early as March 31, 2003;

iv. Tends to show that The Facility Group was the most qualified bidder to manage the completion of the Mississippi Beef Processor Project;

v. Tends to show that the Facility Group notified the state of Mississippi and/or parties to the Project Management Agreement that there was a problem with the contract for the Beef Project between Richard Hall and Sean Carothers.

vi. Tends to show any kind of analysis or discussion with concerning the definition, meaning, or understanding of the following contractual terms in the Project Management Agreement:

a. "at cost,"

b. "FCMI's compensation for Services shall be at cost not to exceed \$3,021,418.00 (the "Services Compensation"), provided that the minimum Services Compensation shall be \$2,500,000.00,"

c. "indirect labor costs,"

d. "insurance,"

e. "labor,"

f. "salaries,"

g. "social burdens,"

h. "materials,"

i. "equipment,"

j. "temporary facilities,"

k. "general conditions costs,"

l. "profit,"

m. "general overhead,"

n. "directly incurred,"

o. "attributable to performance of Services,"

- p. “not to exceed \$3,021,418.00,” and,
- q. “minimum Services Compensation shall be \$2,500,000.00;”
- vii. Tends to show that The Facility Group satisfactorily completed its performance of the Project Management Agreement;
- viii. Pertains to any final inspection engaged in for the purpose of selling the Mississippi Beef Plant;
- ix. Pertains to any internal documentation about representations made to anyone outside the Mississippi Development Authority about the quality of the plant when attempts were made to sell the plant;
- x. Pertains to any evidence that Mississippi Development Authority asked The Facility Group to help procure the sale of the plant;
- xi. Tends to show that The Facility Group helped sell the plant by helping with walkthroughs given to potential buyers;
- xii. Tends to show that The Facility Group and Leland Speed and Terry Hudson engaged in conversations for the purpose of selling the plant to other buyers; including any copies or other memorializations of Terry Hudson’s internal notes regarding attempts to sell the plant;
- xiii. Tends to show that the State of Mississippi, through the Lt. Governor Amy Tuck and her office, solicited the aid of Nick Cawood and The Facility Group as it attempted to sell the plant;
- xiv. Tends to show that The Facility Group requested of the members of the Mississippi Government that the subcontractors on the Mississippi Beef Processor Project get paid in full; including but not limited to such conversations with Lt. Governor Amy Tuck;
- xv. Tends to show the Mississippi Development Authority’s opinion, valuations, or determination of The Facility Group’s qualifications;
- xvi. Tends to show that other persons or entities bidding on or seeking to obtain work on the Mississippi Beef Processor Project were not sufficiently qualified and or had a conflict of interest;
- xvii. Evidences any and all drafts of the Project Management Agreement, including but not limited to documents or other memoranda noting (1) changes between draft versions of the contract, and (2) the fact that initially the contract was to contain two lump sum provisions for both the profit and fee portion of the contract;



xviii. Evidences any statement or discussions concerning how, when, and in what manner, subcontractors would be paid, or not paid;

xix. Internal documentation or memoranda that concerns the fitness of Richard Hall; including but not limited to discussion concerning:

a. His experience, including the fact that other beef plants he previously owned, built or operated had failed or been unsuccessful.

b. His credibility, including whether he was considered trustworthy and what his reputation for trustworthiness, honesty and truthfulness was in the community.

c. Whether Hall submitted inappropriate charges in connection with the project; including charges pertaining to (1) his home, (2) his personal vehicles, or (3) the property of other friends, relatives, or family members.

d. Statements made by Richard Hall during the State's audit of the Mississippi Beef Processor Project;

xiv. Internal documentation or memoranda that concerns the fitness of Sean Carothers; including but not limited to discussion concerning

a. Carothers' experience, including the fact that other beef plants he previously owned, built or operated had failed or been unsuccessful.

b. Carothers' credibility, including whether he was considered trustworthy and what his reputation for trustworthiness, honesty and truthfulness was in the community.

c. Whether Carothers submitted inappropriate charges in connection with the project; including charges pertaining to (1) his home, (2) his personal vehicles, or (3) the property of other friends, relatives, or family members.

d. Statements made by Sean Carothers during the State's audit of the Mississippi Beef Processor Project;

xx. Evidences internal statements from the Mississippi Development Authority that the Mississippi Beef Processor Project should not, would not, or could not be completed or was not economically feasible regardless of its engineering feasibility.

n. Any documents, memoranda, or other memorializations of any evidence, oral or written, that is in the possession, custody or control of the Government that evidences testimony of individuals who have testified, provided evidence, or stated that there was no fraudulent billing by The Facility Group on the Mississippi Beef Processor Project; including, but not limited to, information tending to show that:

- i. The Defendants have integrity;
  - ii. The Defendants did not intentionally overbill;
  - iii. The Defendants' billing practices were common for the industry; or,
  - iv. The Facility Group's billing of other clients in the same manner was considered acceptable and appropriate;
- o. The presentence reports of Richard Hall, Robin Williams, Sean Carothers or any other witnesses who may be called by the Government to testify.
- p. Any documents, memoranda, or other memorializations of any evidence, oral or written, that is in the possession, custody or control of the Government containing information regarding the veracity or lack of credibility of any Government witnesses, including Richard Hall, Sean Carothers, or Robin Williams.
- q. Any documents, memoranda, or other memorializations of any evidence, oral or written, that is in the possession, custody or control of the Government containing information as to all discussion between Sean Carothers and the Government related (1) to charges brought or not brought against him by the federal Government, or (2) charges brought or not brought against him by the State of Mississippi, including, but not limited to, information concerning Sean Carother's cooperation in an effort to prevent the prosecution of
- i. Carothers Construction, or
  - ii. His father or any other family member, relative or employee of Carothers Construction.
- r. Information identifying all persons interviewed by the Government in connection with this case and the number of times that person was interviewed, including the dates of all such interviews and any contemporaneous memoranda or other documentation of the subject matter and content of the interview.
- s. Any documents, memoranda, or other memorializations of any evidence, oral or written, that is in the possession, custody or control of the Government containing information concerning how other design build contractors have administered construction contracts, including but not limited to information pertaining to labor multipliers, insurance rates, and utilization rates.
- t. All interviews and notes and memoranda of all interviews with any witnesses, particularly as one interview may contradict another; this specifically includes notes of prosecutors who were present and which were taken contemporaneously with the interview.
- u. Any documents, memoranda, or other memorializations of any evidence, oral or written, that is in the possession, custody or control of the Government containing notes



or memoranda concerning any representations made by Richard Hall or Sean Carothers to any member of the Mississippi Legislature; this includes any documents pertaining to Carothers or Hall's lobbying for the ownership, or work on, the Mississippi Beef Processor Project.

v. Any documents, memoranda, or other memorializations of any evidence, oral or written, that is in the possession, custody or control of the Government containing any representations made by Richard Hall or Sean Carothers, to the State Auditor's Office before, after or during its investigation of the failure of the Mississippi Beef Processor plant.

w. Any documents, memoranda, or other memorializations of any evidence, oral or written, that is in the possession, custody or control of the Government containing evidence of any campaign contributions made by Richard Hall, Sean Carothers, or Robin Williams.

x. Any and all documentation regarding the recent case involving Blue Cross Blue Shield's reimbursement of employee contributions to the state insurance commissioner.

y. Any report reflecting, explaining, reporting or opining why the Mississippi Beef Processors plant failed

z. All tape recording or dictation notes of the Mississippi Land, Water and Timber Resources Board meetings regarding the Mississippi Beef Processors project or Richard Hall, or The Facility Group for February 2003 through June 2003.

aa. Any oral or written summaries of Leland Speed and/or Terry Hudson requesting Nixon E. Cawood to help sell the Mississippi Beef Processors plant.

bb. Any notes or summaries of Nixon E. Cawood's meetings with representatives of the State Auditors Office prior to the State Auditors Office's report regarding the plant.

cc. Any documentation or notes or summaries of oral or written communication regarding the submissions of the final invoice by the Mississippi Development Authority to the Mississippi Land, Water and Timber Resources Board on behalf of The Facility Group including but not limited to communications regarding the discount credit offered by The Facility Group.

dd. Any notes or summaries of interviews by government officials prior to the plant startups, that reflected that Richard Hall had the ability to profitably run the plant.

ee. Any notes or reports from Terry Hudson (Mississippi Development Authority), William Mendelhall, or the State Auditors Office officials relating to the visit to TGF Office to discuss Change Order No. 1 and Change Order No. 2 and project costing after plant closed.

ff. Any accompanying verifications made by Chance Carter or Dusty Hinton that accompanied The Facility Group invoices to the Community Bank each month.

gg. Any notes, summaries, documents or memos The Facility Group meeting with Lt. Governor, Amy Tuck.

hh. Sean Carothers' knowledge or intent relating to Memorandum of Understanding text about the increased fees between the two (2) Sean Carothers' contracts.

ii. Any training manuals or step up plans prepared by Richard Hall or the Mississippi Development Authority or Community Bank that showed his prior proper planning for start up.

jj. Any reports received by Mississippi Development Authority or Community Bank on the design and construction of the plant that were advantageous to the marketability of the plant.

kk. Written or oral response from Aiso Eglen's bonding company relating to its release from the performance guarantee portion of P&P Bond.

ll. Notes or summaries of Lester Spell interviews relating to The Facility Group and his support of Richard Hall and Sean Carothers.

mm. Notes reflecting Wyman Jones' views regarding funding Change Order No. 1 and Change Order No. 2.

nn. Notes, summaries or documents relating to Sean Carothers' estimates for the whole project, including his fees, insurance and soft cost itemization, including but not limited to his takeover proposal which he would not guarantee.

oo. Documents relating to Sean Carothers' change order requests for time extensions and justifications for same.

pp. All notes, documents, or memos relating to Mississippi Development Authority or Community Bank supporting the sale of the plant, including but not limited to, build drawings, questions on the real need for rendering plant, and waste treatment capacity issues.

qq. All notes, documents, correspondence or memos of Richard Hall relating to his requests for line of credit financing from GE Capitol.

#### **Detailed Requests for Impeachment Material**

a. Any and all records and information revealing prior criminal convictions or guilty verdicts or juvenile adjudications, including, but not limited to, relevant "rap sheets" of each witness the Government intends to call at trial.

b. Any and all records and information revealing misconduct, criminal acts or bad acts (whether or not charged) of any witness the Government intends to call at trial.



c. Any and all considerations or promises of consideration given during the course of the investigation or prosecution of this matter by any law enforcement officials, including prosecutors, agents, police, or informers, to or on behalf of any witness, including, but not limited to Richard Hall, Sean Carothers, and Robin Williams, the Government has interviewed or intends to call at trial, or any such consideration or promises requested by such witness, or any such consideration expected or hoped for by any such witness at any future time. Such "consideration" refers to anything that arguably could be of value or use to a witness or a witness' employer, including, but not limited to: (i) formal or informal, direct or indirect leniency, favorable treatment, or recommendations, or other assistance with respect to any pending or potential criminal, parole, probation, pardon, clemency, civil, administrative, or other matter involving the state or federal Government, or any other matter involving the state or federal Government, any other authority, or other parties; (ii) civil, criminal, or tax immunity grants to a witness; (iii) reductions in or agreements not to assess any tax liabilities, interest or penalties; (iv) payments of money, rewards or fees, witness fees, and special witness fees; (v) provisions of food, clothing, transportation, legal services or other benefits; (vi) letters to anyone informing the recipient of a witness' cooperation; (vii) recommendations concerning federal aid or benefits; (viii) promises to take affirmative action to help the status of a witness in a profession, business, or employment, or promises not to jeopardize such status; (ix) aid in efforts in securing or maintaining the business or employment of a witness; and (x) anything else that arguably could reveal an interest, motive or bias in a witness in favor of the prosecution or against the Defendant, or act as an inducement to testify or to color the witness' testimony.

d. Any and all statements - formal and informal, oral or written, - by the prosecution, its agents and representatives to any person (including counsel for such persons) whom the Government has interviewed or intends to call as a witness at trial pertaining in any way to the possibility, likelihood, course or outcome of any Government action - state or federal, civil or criminal - against the witness, or anyone related to the witness.

e. Any and all threats, express or implied, direct or indirect, or other coercion directed against any witness whom the Government has interviewed or intends to call at trial, or anyone related to the witness, with the purpose or effect of inducing testimony favorable to the Government or suppressing testimony favorable to any Defendant; criminal prosecutions, investigations, or potential prosecutions pending, threatened or which could be brought against any such witness, or anyone related to the witness; any probationary, parole or deferred prosecution status of any such witness, or anyone related to the witness; and any civil, Tax Court, Court of Claims, administrative, or other pending or potential legal disputes or transactions involving any such witness, or anyone related to the witness, and the state or federal governments, or over which the state or federal governments has real, apparent or perceived influence.

f. A list of any and all requests or demands made to the Government by, or on behalf of, any witness whom the Government intends to call at trial (regardless of whether or not the Government has agreed to such request or demand or to provide any favorable action to that witness).



g. All evidence of any negotiations between the Government and any witness for any favorable treatment or other consideration, to be imparted to the witness or any other party, in exchange for the witness' testimony, statements, or other aid provided to the Government in the Government's investigation of any case.

h. Any correspondence or memoranda detailing negotiations, including all offers, proposals and counteroffers between any AUSA regarding favorable treatment, consideration, lesser charges, agreement not to press charges, the prosecution, sentencing or location or length of incarceration of Robin Williams, Sean Carothers, or Richard Hall.

i. Any documents or memoranda detailing any favorable treatment or other considerations given by Mississippi state prosecutors to Richard Hall, Sean Carothers, Robin Williams or other person, in exchange for any testimony, statements, or other aid furthering either the State of Mississippi's or the Government's investigation of the Mississippi Beef Processors Project.

j. Any information or documents tending to establish that Richard Hall, (1) paid his father or mother related to the Mississippi Beef Processors Project, (2) paid his wife related to the Mississippi Beef Processors Project, (3) paid anyone that did not perform work on the Mississippi Beef Processor Project, or (4) paid himself – regardless of the work done, including all money paid from project funds.

k. All documents and other evidence regarding drug and alcohol usage or dependency by any individual the Government intends to use as a witness at trial, including, but not limited to, records relating to treatment of such individual in any federal, state, territorial, city or military drug or detoxification program.

l. All documents and other evidence regarding any physical or mental disease, disability, or disorder affecting any individual the Government intends to use as a witness at trial, including but not limited to records of hospitalization or other treatments for a physical or mental disease, disability, or disorder.

m. Any evidence not otherwise listed that reflects or evidences the motivation of any witness to cooperate with the Government or reflects or evidences the competency or credibility of the Government's witness or the witness' bias or hostility against any of the Defendants.

n. A list of all other judicial proceedings involving a criminal matter in which any person who is a potential prosecution witness in this action participated as a witness, was identified as an unindicted co-conspirator or an aider and abettor, or was charged as a Defendant.

o. Any statements or documents, including, but not limited to, Grand Jury testimony made or executed by any potential prosecution witness at the trial in this action which the prosecution knows, or through reasonable diligence should have reason to know, are false.



p. The existence and identification of each occasion on which any witness, including any witness who is or was an informer, accomplice, co-conspirator, or expert, has testified in any judicial or administrative proceeding, before the Grand Jury, any court, or other tribunal or body, or otherwise has given a statement regarding any of the Defendants, the investigation or the facts of this case.

q. Any written or oral statements, whether or not reduced to writing, made by any potential prosecution witness, which in any way contradicts or is inconsistent with or different from other oral or written, statements he or she has made or his or her anticipated trial testimony.

r. Any written or oral statements, whether or not reduced to writing, made to the prosecution, its agents, or representatives by any individual, whether or not that individual is or may be a witness, which in any way contradict, or are inconsistent with or different from any statements made by a potential prosecution witness or the anticipated trial testimony of any potential prosecution witness, and the name and address of the individual making any such statement.

s. Any requests prepared by the prosecution for permission to grant immunity or leniency to any witness, whether or not such request was granted and whether such requests were granted.

t. Any statements read or given by the Government to the Departments of Pretrial Services or Probation in connection with the prosecution or conviction of any prosecution witness or potential prosecution witness.

u. Copies of all letters or memoranda written to the court in connection with the sentencing of any potential prosecution witness.

v. Any and all other records and/or information that arguably could be helpful or useful to the defense in impeaching or otherwise detracting from the probative force of the prosecutor's evidence.

w. Any of the requests in this letter are also intended to apply to all non-witness declarants pursuant to Rule 806.

x. Copies of any and all records of law enforcement or other Governmental agencies reflecting intra departmental disciplinary action taken against any law enforcement or agency official who will testify in this proceeding, including all such records from any Governmental agency for which the witness previously worked.

y. Copies of any and all records of any law enforcement or other Governmental agency reflecting any commendations, awards, or recognition of any kind received by, or requests for any commendations, awards, or recognition of any kind made by, any Government agent or law enforcement officer for any work, action or conduct undertaken in connection with the investigation and prosecution of this case.



z. All letters, e-mails, correspondence, facsimilies, messages, reports, memoranda or other writings, and the substance of all oral communications, between any AUSA or the U. S. Attorney and any representative of the State of Mississippi (either with the Attorney General's Office, a local District Attorney, or other State prosecutor, or with a representative of the State Auditor's Office) concerning the lessening, avoidance, or dropping of any State charge, or the decision not to charge, or the location or length of incarceration of or for Sean Carothers, Richard Hall, Robin Williams, or any company, relative, employee or family member of or affiliated with Messrs. Carothers, Hall or Williams.

aa. All letters, e-mails, correspondence, facsimilies, messages, reports, memoranda or other writings, and the substance of all oral communications, concerning any decision not to debar or suspend Carothers Construction or any of its employees, subsidiaries or affiliates, or agents from either state or federal contracts.

Each of these requests calls for all responsive items within the possession, custody, or control of the Government, or items the Government knows to exist or could know to exist by the exercise of reasonable due diligence.

Each request is of a continuing nature and calls for supplementation as soon as the Government discovers additional responsive evidence, information, or material.

We also request that the Government preserve and maintain all relevant notes, reports and recordings prepared by or for Government agents or prosecutors, as well as any document, paper, tangible object, tape recording, or other potential item of evidence which is not or may hereafter come within the Government's possession, the production of which is requested in this letter.

### ***Bill of Particulars***

The Defendants request a Bill of Particulars as to the following matters in order to prevent prejudice to their trial preparation and to prepare for trial. Although we seek clarification and specificity through a Bill of Particulars, we nonetheless request that the indictment be dismissed due to the surplusage, vagueness, and indefinite nature of the allegations. Our request is not intended and does not suggest that the defects in the indictment can legally be cured merely by a Bill of Particulars

### **The Indictment Generally: Use of Indefinite Terms**

The term "THE FACILITY GROUP" is given three different definitions in the Indictment. First, THE FACILITY GROUP is used as a reference to the corporate defendant, FACILITY HOLDING CORP., as shown in Count 1, ¶ 1(d). Second, the term "THE FACILITY GROUP" is used in a collective sense in Count 1 but without reference to C. K. Morehead, as shown in Count 1, ¶ 2. Third, the same term "THE FACILITY GROUP" is also used in a collective sense in Count 2, this time including C.K. Morehead, as shown in Count 2, ¶2.



To add to the confusion, the Indictment also refers to “TFG,” as shown in Count 1, ¶2. Further, THE FACILITY GROUP is also referred to as FCMI in Count 1, ¶ 12. Paragraphs 2 and 7 of Count 1 suggests that Robert L. Moultrie is the Chairman and Chief Executive Officer of all of the other six (6) Defendants and ¶ 2 suggests the Nixon E. Cawood is the Chief Operating Officer of all of the other six (6) Defendants.

This changing and inconsistent use of the same term is extremely confusing and ambiguous. Accordingly, the Defendants are deprived of clear and adequate notice of the charges or acts with which each of them is charged.

For these reasons, we believe the Indictment to be fatally defective, and we ask that the Government voluntarily dismiss.

While we do not believe that a Bill of Particulars can cure this fatal defect, should you decide to provide a Bill of Particulars, rather than dismiss, here is our alternative request:

1. With regard to the following paragraphs of the Indictment, specify whether use of the term “THE FACILITY GROUP” refers to only the corporate defendant, Facility Holding Corp., or which of each of the seven (7) Defendants are referred to in:
  - A. Count 1, ¶’s 2, 6, 7, 10, 12, 13, 14, 15, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42.
  - B. Count 2, ¶’s 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 17 18, 19, 20, 21, 23, 24 and 25.
  - C. Paragraphs 2 in Counts 3 through 16.
2. In the paragraphs above, where the term THE FACILITY GROUP refers to any of the Defendants, describe the acts or omissions alleged against each Defendant. Such clarification is necessary in order for each Defendant to be on notice of the acts alleged to have been committed.
3. State what “TFG” stands for and what specific Defendant(s) “TFG” is meant to refer to throughout the Indictment.
4. Where “TFG” refers to any of the Defendants, describe the acts or omissions alleged against each Defendant. Such clarification is necessary in order for each Defendant to be on notice of the acts alleged to have been committed.
5. State what “FCMI” stands for and what specific Defendant(s) “FCMI” is meant to refer to throughout the Indictment.

6. Where “FCMI” refers to any of the Defendants, describe the acts or omissions alleged against each Defendant. Such clarification is necessary in order for each Defendant to be on notice of the acts alleged to have been committed.

**Bill of Particulars specific to Count 1**

Count 1 of the Indictment appears to charge in Count 1, ¶ 2, a conspiracy to bribe a public official, alleging “Defendants, did knowingly and willfully conspire . . . to corruptly give, offer and agree to give things of value . . . with intent to influence and reward . . . in violation of [18 U.S.C. § 666(a)(2)]” However, the inclusion of the factual allegations set forth in Count 1 ¶’s 19, 23, 24, 41 and 42 alleging fraudulent submission of invoices, makes it unclear whether Count 1 also charges a conspiracy to submit false invoices, such that clarification of the allegations set forth in Count 1 is necessary to prevent prejudice or unfair surprise to the Defendants.

1. State whether Count 1 charges only a conspiracy to bribe in violation of 18 U.S.C. § 666(a)(2) [at ¶ 2 of Count 1] or whether it also charges a conspiracy to submit false invoices to be reimbursed for campaign contributions and expenses [at ¶’s 19, 23,24, 41, and 42 of Count 1].

Count 1, ¶ 2 (near the bottom of page 2) of the Indictment, alleges that the Defendants (other than Charles K. Morehead) acted "with intent to influence **and** reward the public official..." [Emphasis added] However, 18 U.S.C. § 666(a)(2) says it is a crime to corruptly give, offer, or agree to give anything of value to any person, "with intent to influence **or** reward ..." [Emphasis added] The verbs "to influence" and "to reward" are mutually exclusive because of the disjunctive word "or." Accordingly, Count 1, ¶ 2 is ambiguous such that clarification of the paragraph is necessary to prevent prejudice and unfair surprise to the Defendants.

2. State whether Count 1 alleges a conspiracy to influence the “public official” or a conspiracy to reward the “public official.”
3. Count 1, ¶ 2 states that the defendants “did knowingly and willfully conspire with each other and with **others known and unknown to the Grand Jury.**” State the identity of the “others known . . . to the Grand Jury” and state the specific acts or omissions committed by them that shows they conspired with the Defendants to violate 18 U.S.C. § 666(a)(2).
4. Count 1, ¶ 27 alleges that “an employee of THE FACILITY GROUP submitted an additional proposal . . .” State the identity of the employee alleged to have submitted the additional proposal.
5. Paragraph 31 of Count 1 refers to “THE FACILITY GROUP was made agent...” Please explain how and why “THE FACILITY GROUP was made agent...”



6. Name of all individuals the Government will allege at trial where co-conspirators in the conspiracy as to Count One of the Indictment.
7. Count 1, ¶ 9 alleges that “the public official told an employee of Carothers Construction . . .” and that “the public official then met alone with Sean Carothers to discuss Carothers’ proposal.” Identify the employee referred to in this allegation.
8. State what, if anything, else is alleged to have been discussed during this event alleged in Count 1, ¶ 9 and referred to above.
9. Count 1, ¶ 13 alleges that Robert L Moultrie and Nixon E. Cawood instructed “employees . . . to issue personal checks payable to the public official.” Identify each employee instructed to issue such personal checks and identify which of the defendants so instructed the employee.
10. Count 1, ¶ 19 alleges that invoices were submitted for the purpose of recouping (A) campaign contributions by the PAC and (B) reimbursing employees who had made their own campaign contributions. Identify which items in which invoices were false and made false for the purpose of recouping this money.
11. For each item in the invoices identified above, further identify to which campaign contribution made by the PAC or to which employee reimbursement the identified false invoice was intended to recoup.

**Bill of Particulars specific to Counts 2-16**

Count 2, ¶ 2 refers to “private companies and persons who supplied services and products to the Mississippi Beef Processors plant . . .”

1. Identify all of the “private companies and persons,” referred to in Count 2, ¶ 2.
2. Paragraph 4 of Count 2, is contradictory in that it alleges both that THE FACILITY GROUP was to be compensated “at cost” for its services, but also in a range of \$2.5 million to roughly \$3.021 million for those services. Therefore, this paragraph alleges two contradictory descriptions of the compensation owed to THE FACILITY GROUP by the terms of the contract. State whether the Indictment alleges that the contract provides for THE FACILITY GROUP to be compensated for its services at cost of whether the contract provides for such at cost compensation to be in the range of \$2.5 million to \$3.021 million.
3. Paragraph 15 of Count 2 refers to “another employee.” Identify that “other employee.”

4. Paragraph 17 of Count 2 refers to “employees.” Identify all of those employees.
5. Paragraph 6 of Count 2 refers to “overbilling.” Please identify how such “overbilling” took place, who participated or was involved or responsible for such “overbilling,” when such “overbilling” took place, and how such “overbilling” allegedly violated the Project Management Agreement.
6. Paragraph 7 of Count 2 refers to “false labor billings.” Please identify how such “false labor billings” took place, who participated or was involved or responsible for such “false labor billings,” when such “false labor billings” took place, and how such “false labor billings” allegedly violated the Project Management Agreement.
7. Paragraph 8 of Count 2 refers to “change orders.” Please identify how such “change orders” took place, who participated or was involved or responsible for such “change orders,” when such “change orders” took place, and how such “change orders” allegedly violated the Project Management Agreement.
8. Paragraph 19 of Count 2 refers to “approximately \$2,000,000 for ‘Services Compensation’ in excess of THE FACILITY GROUP’S actual costs.” Please explain how the figure “approximately \$2,000,000” was calculated, and how it was “in excess of THE FACILITY GROUP’S actual costs.”
9. Paragraph 20 of Count 2 refers to “contingencies.” Please identify how such “contingencies” took place, who participated or was involved or responsible for such “contingencies,” when such “contingencies” took place, and how such “contingencies” allegedly violated the Project Management Agreement.
10. Describe the fiduciary relationship alleged to exist between these “private companies and persons” and each of the Defendants.
11. State the acts and omission through which each Defendant is alleged to have defrauded, by submission of fraudulent requests for payment, (1) “private companies and persons who supplied services and products to the Mississippi Beef Processors plant,” (2) the State of Mississippi and (3) the citizens and taxpayers of Mississippi.
  - a. We would ask that you voluntarily strike the reference to the citizens and taxpayers of Mississippi.
12. State the acts and omissions of each Defendant alleged to defrauded the above names private companies and persons.



13. State whether Counts 2 through 16 of the indictment allege fraud on the part of each defendant through a theory of deprivation of honest services, pursuant to 18 U.S.C. § 1346.
14. State whether Counts 2 through 16 of the indictment allege fraud on the part of each defendant through a theory of deprivation of honest services, pursuant to 18 U.S.C. § 1346.
15. State the names of all individuals the Government will allege at trial were co-conspirators in the conspiracy as to Count Two of the Indictment.

**Alleged Fraudulent Billing under Counts 2 through 16**

1. State how each request for payment constituted fraud in Counts 2 through 16 of the Indictment, identifying what particular aspects of each request for billing were fraudulent, and what conduct engaged in by each Defendant caused the billing to be fraudulent.

The indictment never particularizes how or why each of the alleged acts of mail fraud was fraudulent. There is no specific allegation as to what aspects of each requested payment was fraudulent, nor are there any allegations as to who caused the requests for payment to be fraudulent.

**Inclusion of Count 1 into Counts 2 through 16**

1. State whether Counts 2 through 16 only charge a scheme to defraud in violation of 18 U.S.C. §§ 1341 and 2.

Counts 2-16 explicitly charge a scheme to defraud in violation of 18 U.S.C. §§ 2 and 1341, but each of these Counts also incorporates ¶¶ 1-42 of Count 1, which allege a conspiracy to bribe in violation of 18 U.S.C. § 371. It is unclear why the entirety of Count 1, including its charge of conspiracy to bribe in violation of 18 U.S.C. § 371, is included in Counts 2-16, where the only offense charged is mail fraud.

Sincerely,



Thomas H. Freeland, IV  
Mississippi Bar No. 5527

/s/ **Richard H. Deane, Jr.**

Richard H. Deane, Jr.

/s/ **Jerome J. Froelich, Jr.**  
Jerome J. Froelich, Jr.

/s/ **Craig A. Gillen**  
Craig A. Gillen

/s/ **Thomas D. Bever**  
Thomas D. Bever

cc: Amanda B. Barbour, Esq.  
James B. Tucker, Esq.  
John Colette, Esq.  
Larry Little, Esq.