

COMMITTEE ON FINANCE WASHINGTON, DC 20510-6200

October 15, 2010

Via Electronic Transmission

Donald W. Berwick, MD Administrator Centers for Medicare and Medicaid Services U.S. Department of Health and Human Services 200 Independence Avenue, SW Washington, DC 20201

Dear Administrator Berwick:

The United States Senate Committee on Finance (Committee) has jurisdiction over, among other things, the Medicare and Medicaid programs. As Ranking Member of the Committee, I have a responsibility to conduct oversight to make certain that appropriate steps are being taken to protect Medicare and Medicaid dollars from fraud, waste, and abuse. I write today to follow up on my earlier letter to the Centers for Medicare and Medicaid Services (CMS/Agency) regarding the Agency's Zone Program Integrity Contractors (ZPICs) and Program Safeguard Contractors (PSCs).

The Health Insurance Portability and Accountability Act of 1996 authorized CMS to contract with private organizations to conduct program integrity activities. These organizations – ZPICs and PSCs – are tasked with providing Medicare benefit integrity functions for CMS such as conducting fraud investigations, referring suspected fraud to law enforcement, and performing data analysis to identify trends and billing patterns that indicate fraudulent billing; and take administrative actions, such as referring overpayments to claims processors for collection and return to the Medicare program.

Last year, a number of high-level government officials approached my staff to voice their concerns regarding, among other things, the significance of the PSCs/ZPICS. Specifically, they voiced concern with regard to the operation of these organizations and questioned their real value in the battle against fraud, waste and abuse in the Medicare program. I am trying to get to the bottom of those concerns. To do that, I need the cooperation of the Administration to provide me with real numbers, rather than attempts to misinterpret federal law to, among other things, keep the expenditure of federal dollars a secret. Let me elaborate. On November 5, 2009, I sent CMS a letter requesting, among other things, the following information:

"3) Fees for January 2006 to the present:

a. Provide the annual amount paid to PSCs and ZPICs. Please break down all figures by organization and year.

b. Please provide an explanation of any "award" fees made to PSCs and ZPICs and under what conditions these "award" fees are disbursed.

c. Please state whether or not "deliverables" support the "award" fees and how they are assessed.

d. Identify the total amount of "award" fees, and/or bonuses, allowed under each contract? Please be specific.

e. What is the maximum dollar amount of "award" fees and/or bonuses paid per year for each contract identified?"

On April 1, 2010, CMS replied to my November letter. With respect to items 3(a) and (e), CMS replied, "Please be advised that some of the documents you requested contain trade secret, commercial confidential, procurement sensitive or other information protected or prohibited from public disclosure under the Trade Secrets Act (Title 18 U.S.C. section 1905), the Privacy Act (Title 5 U.S.C. section552a), and the Freedom of Information Act. CMS has forwarded your request for such documents to CMS' FOIA office for processing." Neither I nor my staff have heard or received anything from your FOIA office regarding my earlier requests, which I restated above. My staff, however, requested and received the names of CMS's ZPICs and PSCs for 2008-2010, as reflected in the table below:

	2008	2009	2010
AdvanceMed Corporation	PSC	PSC	PSC
		ZPIC	ZPIC
Cahaba Safeguard Administrators,	PSC	PSC	PSC
LLC			
Computer Sciences Corporation	PSC	PSC	PSC
Health Integrity, LLC		ZPIC	ZPIC
IntegriGuard, LLC	PSC	PSC	PSC
SafeGuard Services, LLC	PSC	PSC	PSC
		ZPIC	ZPIC
TriCenturion Inc.	PSC	PSC	PSC
TrustSolutions, LLC	PSC	PSC	PSC

Using the names of the ZPICs and PSCs listed in the table above, my staff conducted a review of the Federal Procurement Data System-Next Generation (FPDS-NG) Uniformed reporting requirements for the FPDS-NG are set forth under Federal Acquisition Regulations (FAR). Specifically, each executive agency must establish and maintain for a period of 5 years a computer file, by fiscal year, containing unclassified records of **all** procurements exceeding \$25,000.00. The excerpt below was provided to my staff when they registered online at the FPDS-NG website:

Welcome to Federal Procurement Data System - Next Generation

FPDS-NG offers public users unprecedented access to the spending patterns of the Federal government – at no cost. Once you have registered at www.fpds.gov, you will have access to more than 12 million contract actions from across the Federal government.

I am providing you a few examples of the information my staff compiled from the FPDS-NG website pertaining to the PSC/ZPIC contractors. (*See* Attachment 1) Clearly, some of the information related to my requests to CMS back in November 2009 is within the public domain. For example, under request 3(a), I asked CMS to provide the annual amounts paid to PSCs and ZPICs from January 2006 to the present. The FPDS-NG website shows that on 2/02/2009, funds were obligated in the amount of \$9,618,646.00 to AdvanceMed Corporation for ZPIC-Zone 5, and again on 9/30/2009 in the amount of \$7,683,366.00 for ZPIC-Zone 2. On 9/30/2008 funds were obligated to Health Integrity, LLC in the amount of \$2,419,999.00 for ZPIC-Zone 4 and on 9/30/2008 to Safeguard Services, LLC in the amount of \$1,074,953.00 for ZPIC-Zone 7.

These numbers are available on a public website. Since CMS presumably uploaded or submitted the numbers to the FPDS-NG website, why CMS affirmatively decided to withhold this information from Congress raises questions about the Administration's commitment to transparency and accountability.

Therefore, I am requesting for a second time that CMS provide answers and information addressing (3)(a thru e) of my November 2009 letter. In addition, please respond to the following requests:

- Are the obligated funds reported on the FPDS-NG website for AdvanceMed Corporation, Health Integrity, LLC and Safeguard Services, LLC correct? If not, please provide the correct numbers and explain the discrepancies between the information made available to the public and the information in CMS's records.
- 2) Please provide the dollar figures for all funding awarded to each of the companies identified in the table above for their PSC and/or ZPIC contracts with CMS, for the period of January 2006 to the present. The figures should include at a minimum the base funding provided for each PSC and/or ZPIC contract awarded, any and all additional funding provided to the above companies under their PSC and/or ZPIC contracts with CMS per contract modifications or exercised option values, and any other funding amounts responsive to my earlier requests that were not previously provided to me.

I am also concerned about the return on investment (ROI) these PSCs/ZPICs bring to the Medicare/Medicaid program for the U.S taxpayer, based on two recently published Department of Health and Human Services Office of Inspector General (OIG) reports. In June, Senator Baucus and I wrote to CMS about the findings of these two reports. Let me reiterate and further elaborate on what OIG found. In 2007, the PSCs referred 4,239 overpayments totaling \$835 million for collection by claims processors; only 7 percent or \$55 million was collected. The claims processors referred 53 percent, or \$446 million, of the \$835 million to the U.S. Treasury's cross-servicing program for collection. The cross-servicing program for fiscal years 2003-2007 never collected more than 2 percent of all federal debt referred to it. In addition, the OIG reported claims processors could not provide data for 8 percent of the overpayment dollars referred by PSCs (\$64 million). The claims processors also advised the OIG that they did not receive the referrals or they could not provide any collection information for 1,060 of the 4,239 overpayments, amounting to an additional \$58 million potentially lost to the U.S. taxpayer.

What further fuels my concern about the effectiveness of the PSCs/ZPICs related to ROI is the data presented in the table below, taken from one of the recent (May 2010) HHS/OIG reports. I find it appalling that the ROI of overpayments referred in 2007 by the PSCs in relation to their oversight responsibility is less than 1%, 0.281% to be exact. The table also shows me that some of the largest PSCs in relation to their oversight responsibility are referring the least amount of overpayments for collection, and the smaller PSCs are referring the most. This is counter-intuitive and suggests that some of the contractors are not doing their jobs. Your response to the letter Senator Baucus and I sent to you on June 22, 2010, is long overdue.

Comparison of PSC Overpayment Dollars Referred for Collection and PSC Oversight Responsibility in 2007

PSC	Dollar Amount of Overpayments Referred for Collection	Oversight Responsibility Ranking From Largest to Smallest	Dollar Amount of Oversight Responsibility (Medicare Payments)	Dollar Amount of Overpayments Referred for Collection for Every \$1 Million in Oversight Responsibility
1	\$265,887,671	16	\$4,732,243,732	\$56,186
2	\$252,721,299	5	\$19,980,994,913	\$12,648
3	\$53,669,785	1	\$62,447,462,696	\$859
4	\$52,667,600	18	\$2,162,988,566	\$24,349
5	\$38,796,266	2	\$31,516,939,545 \$7,062,482,499	\$1,231
6	\$35,004,560	14		\$4,956
7	\$27,486,724	7	\$17,947,334,212	\$1,532
8	\$19,299,679	13	\$8,490,980,519	\$2,273
9	\$15,957,395	17	\$3,177,404,337	\$5,022
10	\$13,442,469	3	\$28,093,398,172	\$478
11	\$12,171,683	9	\$15,960,804,802	\$763
12	\$11,647,722	11	\$10,179,022,445	\$1,144
13	\$10,951,325	4	\$21,695,035,563	\$505
14	\$10,655,761	8	\$16,227,439,361	\$657
15	\$4,478,215	12	\$10,100,139,551	\$443
16	\$3,951,992	15	\$5,720,592,445	\$691
17	\$3,721,667	10	\$11,236,890,885	\$331
18	\$2,544,128	6	\$19,634,590,542	\$130
Total	\$835	,055,941	\$296,366,7	44,785
Source: OIG analy	sis of responses fro	om PSCs, claims pro	ocessors, and CMS.	

Thank you for your immediate attention to this important matter. Please provide CMS's responses by no later than October 29, 2010. Should you have any questions regarding this letter, please contact Angela Choy or John DeDona at (202) 224-4515. All formal correspondence should be sent electronically in PDF format to Brian_Downey@finance-rep.senate.gov or via facsimile to (202) 228-2131.

Sincerely,

Chuck Analy

Charles E. Grassley Ranking Member

Attachment

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Number Of Actions:		1	
Consolidated Contract:			
Legislative Mandates	Principal Place of Performan	ice	
Clinger Cohen Act:	Principal Place Of Performan	nce Code (State, Location, Country):	TX 65000 US
Service Contract Act:	Principal Place Of Performan	nce County Name:	BEXAR
Walsh-Healey Act:	Principal Place Of Performan	nce City Name:	SAN ANTONIO
Davis Bacon Act:	Congressional District Place	Of Performance:	20
	Place Of Performance Zip Co	ode(+4):	78205 - 3701
Product Or Service Information	tion		
Product/Service Code:	R499 Description:	OTHER PROFESSIONAL SERVICE	S
Principal NAICS Code:	541990 Description:	ALL OTHER PROFESSIONAL, SCI	ENTIFIC, AND TEC
Bundled Contract:	Not a bundled requirement		
System Equipment Code:		an an an ann an an an an an an an an an	
Country of Product or Service Origin:	US UNITED STATES		
Place of Manufacture:	Not a manufactured and prod	JCT	
Use Of Recovered Material:	annen fen fan skanste men in de sterer rekel tet alse in soeie oakte te men in de tree oakte de stere stere ste		
InfoTech Commercial Item Category:	Select One		
Claimant Program Code:	Description:	an a	
Sea Transportation:	Selectione	· · · · · · · · · · · · · · · · · · ·	
GFE/GFP Provided Under This Action:	Ô		
Use Of EPA Designated	Not Required		
Products: Description Of		a de la seconda de la companya de la	ىرى ئۆرۈك بىرى بىرى بىرى بىرى بىرى بىرى بىرى بىر
Requirement:	ZONE PROGRAM INTEGRIT	Y CONTRACTOR ZONE 4	
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Competition Information			
Extent Competed For Referen	nced IDV:	Full and Open Competition	
Extent Competed: Solicitation Procedures:		Full and Open Competition	
Type Of Set Aside:		Negotiated Proposal/Guote	·
Evaluated Preference:		No Preference used	
SBIR/STTR:		Select Oner	and the second
Statutory Exception To Fair C	Opportunity:	Select One	
Other Than Full And Open Co	ompetition:	Select Onet	· · · · · · · · · · · · · · · · · · ·
Local Area Set Aside:		Selectone ·	
Number Of Offers Received:		1 Pre Award FBO Syno	psis:
Small Business Competitiven	ess Demonstration Program:	SBA/OFPP Synopsis	Waiver Pilot:
Commercial Item Test Progra	m:	Alternative Advertisin	ng: E
Commercial Item Acquisition	Procedures:	A76 Action:	
Preference Programs / Other	Data		
Contracting Officer's Busines		Office that Small Business	
Contracting Officer's Busines Subcontract Plan:		Other than Small Business	
	s Size Selection:		•
Subcontract Plan:	s Size Selection:	Select One:	•

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	(Print) Close (1	Help	
Transaction Information		· · · · ·	
Award Type: Delivery/Task Order Pre	Dared Date: 04/09/2009 17:12:38	Prepared User: TCH	EN
Award Status: Final Last	Modified Date: 04/09/2009 17:12:40	Last Modified User: TCH	EN
Document Information			
Agency Pro	curement Identifier	Modification No	Trans No
Award ID: 7530 HH	SM5000001	0	0
Referenced IDV ID: 7530 HH	SM500200800030I	0	
Reason For Modification:			
Solicitation ID:			
Dates	Amounts	,	
Date Signed: 09/30/2008	Action Obligation:	Г	\$1,074,953.00
Effective Date: 09/30/2008	Base And Exercised Opt	ons Value:	\$1,074,953.00
Completion Date: 10/31/2009	Base And All Options Va	lue:	\$67,810,963.00
Est. Ultimate Completion Date: 10/31/2013	Fee Paid for Use of Indef	nite Delivery Vehicle:	\$0.00
Purchaser Information	a da la factoria de la constructione de la construction de la construction de la construction de la construction	ł _{ewe} nne	nangen felder men geget er fransk af en nage og fransk av andersk fal
Contracting Office Agency ID: 7530	Contracting Office Agency Name:	CENTERS FOR MEDICAR	
Contracting Office ID: 00500	Contracting Office Name:	DEPT OF HHS/CMS	
Funding Agency ID:	Funding Agency Name:		
Funding Office ID:	Funding Office Name:		
Funded By Foreign Entity:	Reason For Inter-Agency Contracting	: Select One	
Contractor Information	Socio Economic Data		
CCR Exception: PLEASE SELECT CCR EXCE			in in a starting
	FILON BI CLICKING THE ELLIPSIS		
Vendor Name: SAFEGUARD SERVICES LLC			
DBAN:	Veteran Owned		ribal Government
Street: 5400 LEGACY DRIVE	8(a) Firm		lack Owned
Street2:	Hub Zone		ative American
City: PLANO	JOE J SDB JWOD (Sheltered	Minority Institution	sian Indian
State: TX Zip: 750243	Workshop)	American Indian 🔄 No	on-Profit Organization
Congressional TEXAS 03 District:	НВСИ	State Government	ispanic Owned
Country: UNITED STATES	Educational Institution	Federal Government 🛛 🔄 Er	merging Small
Phone: (972) 605-7221	Women Owned	Minority Owned	ospital
Fax No: (703) 742-2674	·····	Dusiness	
DUNS No: 8019937880000	Organization Type	anin tain an a fair an	Annual Revenue
Contractor Name From SAFEGUARD SERVICES LLC	CORPORATE NOT TAX 1	20000 \$18,4	99,999,744
Contract:	and a second		
Contract Data			
Type of Contract:		an a	•
Multi Year Contract:	[<u>[]]</u>		
Vlajor Program:	ni ini ini ini ini ini ini ini ini ini		
National Interest Action:			•
Cost Or Pricing Data:	Select One	薮 •	
Purchase Card Used As Payment Method:			
Letter Contract: Performance Based Service Acquisition:			
FY 2004 and prior; 80% or more specified as perf equirement FY 2005 and later; 50% or more specified as perfo			
equirement			

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	Contingency Humanitarian	Peacekeeping Operation:		Select One		•
	Contract Financing:	·		Select One	NEW POINT	
	Cost Accounting Standards	s Clause:	E			
-	Number Of Actions:		1			
	Consolidated Contract:		E	1		
	Legislative Mandates	Principal Place of Performan	ice		<u>.</u>	
	Clinger Cohen Act:	Principal Place Of Performa	•		TX 58016 US	
	Service Contract Act:	Principal Place Of Performa	-		COLLIN	
	Walsh-Healey Act:	Principal Place Of Performat	-		PLANO	<u> </u>
	Davis Bacon Act:	Congressional District Place		ance:	03	
	Product Or Service Informat	Place Of Performance Zip Co	ode(+4):		75024 - 3105	
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	Product/Service Code:			S (OPERATIONAL)		
	Principal NAICS Code:			ER PROFESSIONAL, SCIEN	NTIFIC, AND TEO	
	Bundled Contract:	Not a bundled requirement				
1	System Equipment Code:					
	Country of Product or Service Origin:	US UNITED STATES				
	Place of Manufacture:	Nota manufactured and prod	ict og Egge			•
	Jse Of Recovered Material:	Select One	1			
	nfoTech Commercial Item Category:	Select One	I .			. •
1	Claimant Program Code:	Description:				
1	Sea Transportation:	Select One		i i anti i		
1	GFE/GFP Provided Under This Action:					
	Jse Of EPA Designated Products:	Not Required				
	Description Of	ZONE PROGRAM INTEGRIT	Y CONTRA	CTOR - ZONE 7		
	Requirement: 4000 characters)					I
		an a		nik kana dan manangan kana kana kana kana kana kana ka	3	
c	ompetition Information					
E	xtent Competed For Referer	nced IDV:	Full and	Open Competition	an a	
E	xtent Competed:		Eulland	Open Competition		
s	olicitation Procedures:		Negotiat	ed Proposal/Quote	-	
T	/pe Of Set Aside:		No set a	side used		
	valuated Preference:		1	rence used	•	
	BIR/STTR:			ne e mane factor		
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	ther Than Full And Open Co ocal Area Set Aside:	mpetition:		0 8 \$25.07.25 .25.0 • 57 .		
	umber Of Offers Received:		Select O	in the second	ie: EA	
Ł		ess Demonstration Program:	4 [5]	Pre Award FBO Synops SBA/OFPP Synopsis W		
1	ommercial Item Test Program	-	E F	Alternative Advertising:		
	ommercial Item Acquisition I		n N	A76 Action:		
1	eference Programs / Other I		لاسط	ist e nouvin	ليا	
ca	ntracting Officer's Business	s Size Selection:	Other than	Small Business		
	bcontract Plan:	· ·	- -		•	
Pr	ce Evaluation Percent Diffe	rence:		%		
Re	ason Not Awarded To Small	Disadvantaged Business:	Select One			
Re	ason Not Awarded To Small	Business:				
						1

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9/2/2010