



Robert E. Antonacci II, CPA
Comptroller

COUNTY OF ONONDAGA

Office of the
County Comptroller

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June 21st, 2011

The Honorable County Executive
The Chairman of the County Legislature
The Commissioner of Corrections
The Director of Purchase
The Administrator of Physical Services
The Chief Fiscal Officer
The Clerk of the County Legislature

We have completed the review of complaints levied regarding the Corrections Food Service RFP.

During the course of this review one concern was noted. The contract amendment for up to \$.05 per meal, put thru in April 2011 seems to be in contradiction with the RFP, which stated price increases are put thru on the anniversary date. It is our understanding in speaking to the Departments involved the County initiated this meal change resulting in the amendment. It is recommended to protect the RFP process the RFP be adhered to. It is further noted in reviewing a select payment to the Vendor they are charging the County an additional \$.015 per meal not the maximum allowed of \$.05 per meal.

In conclusion, I would like to extend my appreciation and thanks to the management and staff of the Corrections Department, Purchasing Division and Law Departments for their cooperation concerning this review. I would like to acknowledge the assistance and courtesy my staff received from the respective departments.

Sincerely,

Robert E. Antonacci II, CPA

FOOD SERVICE COMPLAINT

Date: 6/20/2011

Subject: Aramark Food Service Complaint

Allegation #1

On 1/1/11, the ARAMARK Corporation started using un-sentenced inmates at the Justice Center to augment their work force. I'm not sure, but I have a strong feeling it is against New York State Correctional Law to use un-sentenced inmates to work for a private, for profit, corporation

The Laws of New York - Correctional -Article 7, sec 177 par 4, states, "*No product manufactured in whole or in part by inmates, "shall be sold, or otherwise disposed of for profit", except to the state itself or to a political subdivision or the government of the United States or to any state of the United States*".

The following is based upon discussions with the County Law Department.

Correction Law does not define the term inmate; however, an inmate is an individual confined in an institution/facility. There is no distinction between sentenced and un-sentenced (pretrial detainees) inmates. Unless otherwise distinguished, the term "inmate" should be read to mean both sentenced and pretrial detainees.

Section 171 of the Correction Law, permits the Commissioner of Correction and officials of all penitentiaries in the state to cause inmates to be employed. The inmates' labor, however, must be either "for the purpose of the production of supplies for the institution [in this case meals for the inmates], or for the state, or any political subdivision thereof, or for any public institution owned or managed and controlled by the state or any political subdivision thereof: or for the purpose of industrial training and instruction, or partly for one, and partly for the other of such purposes". The preparation and distribution of meals in the institution is clearly a purpose contemplated by this statute.

Further, section 177(2) of the Correction Law provides: "The labor of inmates in local correctional facilities **after** the necessary labor for and manufacture of all needed supplies for the same, shall be **primarily** devoted to the counties respectively, in which said local correctional facilities are located, and the towns, cities and villages therein, and to the manufacture of supplies for the public institutions of the counties, or the political subdivisions thereof, and **secondly** to the state and the public institutions thereof;"

This means, for example, that if the inmates are producing or manufacturing a product beyond what is necessary to feed the inmates in the institution then the purpose in doing so must be primarily for the benefit of the county. The inmates' labor is for the primary purpose of feeding those in the institution (a needed supply).

Based upon information from the Food Service Manager (County employee) at the Justice Center, ARAMARK staff prepares food for the staff dining operation.

Allegation #2

ARAMARK has received a \$.05 price/meal increase during the first qtr of contract 00211.

Under Special Conditions on page 2 of Contract 00211 states, "Increases to the bid price may be honored at the time of anniversary date of the contract. The contractor must notify the County Purchasing Director sixty (60) days prior to the contract anniversary date of their request to increase prices. Increases will be calculated using the "Unadjusted Percentage Change" for Finished Consumer Foods located in Table I of the Producer Price Indexes, published by the U.S. Department of Labor, Bureau of Labor Statistics. The unadjusted percentage change for the most recent twelve (12) month period will be used. The County does not honor price adjustments for labor (unless minimum wage is increased and it is required by law)."

Based upon review of emails obtained from the Accountant II it appears the Purchasing Director authorized the price increase and guided the department on this issue. In discussions with the Director of Purchase the amendment for up to \$.05 per meal increase was "because one particular meal was inedible therefore the menu was changed as a safety issue in order to prevent rioting in the prison over the inedible meal".

Note: We looked at some of Aramark's recent claims and it appears they only have charged the County an additional \$.015 per meal

The price increase also affected the Justice Center's costs, being the contract is for both the Justice Center and the Corrections Department food service.

In light of the above up to \$.05/meal increase ARAMARK is still under the other bidder Canteen/Compass by \$0.228 for 2900 calorie meals and \$0.292 for 3400 calorie meals.

Based upon an analysis of food service costs, the County has saved approximately \$212,782 or 52% in the first qtr of 2011 over the first qtr of 2010. The first qtr of 2010 was \$408,367 total food service costs. 2011 first qtr costs were \$195,585.

If the RFP states price increases occur on the anniversary date the County should follow the RFP as outlined.

Allegation #3

ARAMARK's menu does not meet the minimum specifications outlined in Bid Proposal#7074. Specifically, page 8; item 35: to assure a minimum level of menu quality, at least five, X cup fruit and vegetable equivalents are required each day on the menu. A

minimum daily variety of four different fruits and vegetables shall be used to meet the requirement. Items such as fruit drinks, rice and noodles do not qualify as fruit or vegetable equivalents. ARAMARK's present menu only averages three daily fruit and vegetables. As far as variety, week one menu has garden salad on five times, coleslaw on four times and pinto beans on three times. Week two menu has garden salad on seven times, coleslaw on five times and pinto beans on twice. Week three menu has garden salad on five times, coleslaw on three times and pinto beans on twice. Week four menu has garden salad on five times, coleslaw on three times and pinto beans on three times.

Requirement 20 of contract 00211 states, "A menu and menu schedule to be agreed upon monthly between the vendor and the Department of Correction Commissioner/Designee." In addition, requirement 21 of the same contract states, "A New York State corrections experienced registered dietician **MUST** approve all menus." The menus provided by the complainant appear to have been reviewed and signed by an RD/CDN, and the Commissioner's designee.

See allegation #4

Allegation #4

On 12/29/10, Onondaga County, Department of Correction, purchased and received \$3,101.20 worth of ground turkey and hamburgers. These items were not required for the Onondaga County Food Service Operation. These items were allegedly purchased and given free of charge to ARAMARK. The reason was to substitute undesirable soy items in their first three week menu cycle.

The following County employees were involved in the initial menu tasting.

From Justice Center: A Captain (JC)

From Corrections: Commissioner, Assistant Commissioner, 2 Captains & a Lieutenant.

From ARAMARK: 4 people including two cooks.

The County purchase of beef patties and ground turkey from Deli Boy appears to be valid. It is apparent there was displeasure with soy products being used in the preparation of meals and a management decision was made to substitute the soy product with either the purchased beef or ground turkey. Based upon requirement 20, "A menu schedule to be agreed upon monthly between the vendor and the Department of Correction Commissioner/Designee." In addition, requirement 21 of the contract between ARAMARK Correctional Services, LLC and the County states, "All menus and special diets must meet the standards established by the New York State Commission of Correction, and the American Correctional Association. A New York State corrections experienced registered dietician **MUST** approve all menus." The menus provided by the complainant appear to have been approved and signed by an RD/CDN, and the Commissioner's designee.

The items although not palatable to a particular persons taste, may or may not be palatable to another. With nutritional requirements being met, management's decision to

purchase these items does not appear nutritionally necessary nor should be an additional expense to taxpayers. The amount was decided by County Management to be paid by the County and not reimbursed by ARAMARK.

Allegation #5

On 12/29/10, Onondaga County, Department of Correction, had a ration inventory valued at \$9,706.69. This inventory was conducted only at the Justice Center operation. Not included in this figure: the above \$3,201.20; rations stored at Jamesville; or the rations I subtracted that was required for the 12/30/10 & 12/1/31 menu. This inventory is estimated to be worth over \$12,800, and was allegedly given, free of charge, to the ARAMARK Corporation.

A written inventory listing @ 12/31/10 was provided by the Accountant II, valued at \$8,884.34. An adjustment of \$873 was given to ARAMARK for items not on the ARAMARK menu but they were willing to purchase for approx 25% off. The end result is the County received \$8,011.34 credit on SR05313 dated 1/31/11. Also included on the same SR was as a credit of \$465.85 to the County. The County was erroneously billed and paid a milk supplier when ARAMARK should have been billed. A total credit of \$8,477.19 on the above mentioned SR was given. The \$3,101.20 worth of ground turkey and hamburgers was not credited to the County. It also appears County management did not intend on seeking reimbursement for the above items due to a menu change initiated by the County.