

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF REHABILITATION & CORRECTION
FILE ID NO.: 2016-CA00020
DATE OF REPORT: JUNE 15, 2017

The Office of the Ohio Inspector General ... The State Watchdog

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Randall J. Meyer
Ohio Inspector General



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REPORT OF INVESTIGATION

FILE ID NUMBER: 2016-CA00020

SUBJECT NAME: Aramark Correctional Services, LLC

POSITION: Vendor

AGENCY: Ohio Department of Rehabilitation and Correction

BASIS FOR INVESTIGATION: Initiative

ALLEGATIONS: Failure to Exercise Adequate Oversight of Agency/Departmental Functions/Activities; and State Contracts

INITIATED: May 18, 2016

DATE OF REPORT: June 15, 2017

INITIAL ALLEGATION AND COMPLAINT SUMMARY

In February 2016, the Office of the Ohio Inspector General became aware of a report issued by the Michigan Office of Auditor General summarizing its review of the Michigan Department of Corrections Food Services and its contract with Aramark Correctional Services Inc. (Aramark). The report noted that the Michigan Department of Corrections (MDOC) used the MealTrac¹ computer system to track inmate meal activity. Because Aramark believed these counts were inaccurate, Aramark conducted its own meal counts and billed MDOC using its (Aramark's) count. The Michigan Auditor General reported that Aramark and MDOC were unable to agree on the accuracy of the MDOC meal counts and that no processes existed to validate the differences between Aramark's billed inmate meal counts and the MDOC meal counts. Thus, the Michigan Auditor General reported that MDOC paid Aramark \$3.4 million for billed meal counts that exceeded the MDOC counts; and in some instances, the counts exceeded the facility census counts.

The Office of the Ohio Inspector General compared the billing methods reflected in the contracts awarded to Aramark by the Ohio Department of Rehabilitation and Correction (ODRC) and by MDOC. Investigators determined that ODRC agreed to pay Aramark for meals served based on a midnight inmate census count, whereas MDOC paid Aramark for actual inmate meals served. Further research also revealed additional news articles highlighting issues with Aramark's overbilling of meals served at various other correctional institutions throughout the United States.

On May 18, 2016, the Office of the Ohio Inspector General initiated an investigation to review the contract provisions detailing payments to be made by the Ohio Department of Rehabilitation and Correction to Aramark Correctional Services, LLC for food services provided in accordance with the contract.

¹ MealTrac is a computer system software designed to automatically count the number of meals served to prisoners for billing purposes.

BACKGROUND

The Ohio Department of Rehabilitation and Correction is charged with the supervision of felony offenders in the custody of the state, including providing housing, following their release from incarceration, and monitoring the individuals through the parole authority. The department also oversees the community control sanction system that provides judges with sentencing options to reduce the inmate population. There are currently 31 correctional institutions throughout the state. The director of ODRC is appointed by the governor and confirmed by the Ohio Senate. ODRC is funded through general revenue funds, federal funding, and revenue earned through sales from the Ohio Penal Industries.

Aramark Contract

On June 21, 2013, ODAS awarded a contract to Aramark Correctional Services, LLC effective from September 8, 2013, through June 30, 2015. ODAS subsequently renewed the contract through June 30, 2017. In the contract, Attachment Three, Part One: Performance and Payment, *Compensation* provides that "... the State will pay the Contract the amounts identified in the RFP (the "Fee"), plus any other expenses identified as reimbursable in the RFP."

INVESTIGATIVE SUMMARY

The Office of the Ohio Inspector General obtained documentation supporting the Ohio Department of Rehabilitation and Corrections (ODRC) payments to Aramark Correctional Services, Inc. and determined the following total payments were issued for services provided from December 31, 2015, through November 23, 2016:

| Services Provided | Amount Billed |
|-------------------------------|-------------------------|
| Inmate Meals per Census Count | \$ 58,906,446.61 |
| Kosher Meals | 2,545.48 |
| Additional Expenses Incurred | 42,660.22 |
| Credits Issued | (712.50) |
| | <u>\$ 58,950,939.81</u> |

On September 12, 2016, the Office of the Ohio Inspector General interviewed ODRC Office of Acquisition and Contract Compliance Assistant Chief Ken Kopycinski to determine the process

ODRC used to verify the accuracy of the invoices submitted by Aramark. Kopycinski explained that both he and Aramark representatives have access to the daily SNAPS² report. The SNAPS report shows the total number of inmates housed at each correctional institution and a grand total for all correctional institutions. These reports are maintained in an ODRC network system folder accessible by both Kopycinski and Aramark representatives.

Kopycinski explained that for each Aramark monthly invoice submitted to ODRC, it (Aramark) submitted an Excel workbook containing worksheets showing the invoice, kosher meals served, and a worksheet for each correctional institution documenting each day's midnight census inmate count and the grand total for the identified billing period obtained from the SNAPS report. Kopycinski stated initially that he compared the daily inmate midnight census count for each correctional institution Aramark reported to the corresponding daily SNAPS report from the ODRC Departmental Offender Tracking System (DOTS).³ Kopycinski stated that he found no discrepancies during this review. Kopycinski explained that he currently "spot-checks" the daily counts Aramark reported to the supporting SNAPS reports and continues to find minimal, if any, discrepancies.

Kopycinski explained Aramark attaches support documentation to validate the additional expenses or credits reflected on the monthly invoice. Support documentation primarily includes incident reports, third-party invoices, emails, and other relevant documentation. Kopycinski explained that he reviews the attached support documentation and verifies that the additional expenses invoiced and credits awarded by Aramark are supported. Once completed, Kopycinski prints the invoice, documents that it is "ok to pay," and signs his name. The printed invoice is attached to a copy of the contract and purchase order and is then sent by Kopycinski's staff to accounts payable for processing.

Review of Inmate Midnight Census Count

A review of the Request for Proposal and subsequent contract noted that Aramark agreed to invoice ODRC using a,

² This is short for snapshot.

³ A computer system used to track inmate information by ODRC.

... per diem rate per inmate on the midnight census count, where the Agency [ODRC] will pay the awarded Contract on a monthly basis the per diem rate multiplied by the daily midnight [census] count for each institution for each day of service in the month for which the invoice is submitted.

The Office of the Ohio Inspector General compared the daily inmate midnight census count Aramark reported to the daily SNAPS reports⁴ to determine whether Aramark's counts were in agreement. Investigators noted a daily discrepancy of 13 inmates between the SNAPS report grand total and the calculated total of inmate counts for all correctional institutions served by Aramark for December 31, 2015, through March 30, 2016.

On October 25, 2016, Kopycinski explained that in July 2014, there was a meeting between Aramark and ODRC representatives to discuss the reason the 13 inmates were included in the overall SNAPS report total, but not in a calculated total of the correctional institution inmate counts. Kopycinski recalled that ODRC IT representatives thought the issue involved London Correctional Institution (LOCI). Based on these discussions, ODRC instructed Aramark to add 13 inmates to the SNAPS report counts for LOCI when calculating the daily inmate midnight census counts. Upon receipt of Aramark's invoice, ODRC paid Aramark for the number of meals served based on the actual daily midnight inmate census count plus the 13 additional inmates ODRC directed Aramark to add to the LOCI daily count.

Investigators asked ODRC to provide an explanation as to how the SNAPS report was generated from the ODRC Departmental Offender Tracking System (DOTS). In emails dated December 7 and 8 of 2016, ODRC Program Administrator 3 Brian Wittrup explained that, as he understood it, the SNAPS report,

... snapshots a single time in the database of what inmates are listed for what prisons in the database. But, if releases have not been taken out of the system, or out-to-court or the myriad of other movements, it will not be reflected in the SNAPS count.

⁴ ODRC provided institution count sheets generated by ODRC staff when the SNAPS reports were no longer available. Each day's SNAPS report was only available for a 24-hour period.

Wittrup further stated that the “SNAPS report will vary from the prisons because the prison counts are real time BODY counts, factoring in dozens of variables... . The computer counts are NOT body counts.” ODRC does not operate a “computer driven count system.”

On December 21, 2016, Kopycinski emailed investigators that the ODRC IT staff had notified an ODRC deputy director that, “... the issue with the DOTS Portal SNAPS report has been identified and corrected.” ODRC IT staff had determined that the 13-inmate discrepancy was caused by test or dummy inmates in test cases assigned to the now-closed Ohio State Reformatory. These 13 inmates were included in the overall SNAPS report total numbers reported by the DOTS system and were subsequently used by ODRC and Aramark for the daily inmate midnight census count. Kopycinski further stated that ODRC had contacted the Ohio Department of Administrative Services (ODAS) to determine the steps to be undertaken to correct this situation.

On February 15, 2017, Kopycinski stated in an email to investigators that ODRC had determined that Aramark owed ODRC \$57,192.64 for the 13 inmates that ODRC had directed Aramark to add to the inmate daily midnight census count from September 18, 2013, through November 23, 2016. On March 31, 2017, Aramark credited \$57,192.64⁵ against the amount owed by ODRC for these additional inmate meals.

Additional Expenses: Paper Goods

During a review of the ODRC support documentation for additional expenses totaling \$42,660.22, investigators noted ODRC paid Aramark for half of the paper costs during floor construction at Toledo Correctional Institution. On September 13, 2106, Kopycinski explained to investigators that the contract between ODRC and Aramark provided that ODRC is responsible for 50 percent of the costs should ODRC prevent Aramark from using the kitchen equipment for more than one day.

⁵ ODRC calculated this amount as the number of calendar days times the applicable per diem rate for 13 inmates. For example, for the period of 9/8/13 through 6/30/14, ODRC identified 296 serving days at \$3.61 per day for 13 inmates, or \$13,887.43. Similar calculations were performed for the period of 7/1/14 through 11/23/16.

On November 30, 2016, investigators requested that Kopycinski identify which section of the contract that contained this requirement. Kopycinski replied in an email on the same date that, "... it is not part of the original contract but an agreement between both parties." Given that some of the construction projects are consisting of weeks and even months in some cases, Kopycinski explained that Aramark requested that ODRC "... pay for the cost of the paper product when a project consisted of weeks and months as DRC was to provide Aramark with an operational kitchen with equipment." Ultimately, Kopycinski stated that it was agreed that, "... DRC and Aramark would split the cost 50/50 on large construction or kitchen replacement projects." Investigators determined that ODRC paid Aramark \$37,682.73 for 50 percent of the cost of paper goods used because of equipment failure or construction that had occurred from July 30, 2015, through September 28, 2016.

In a later email on the same day, Kopycinski told investigators that this understanding was a verbal agreement between ODRC and Aramark. However, in Attachment Three General Terms and Conditions, Part Six: Construction, *Amendments – Waiver* of the contract between ODRC and Aramark provides, "No change to any provision of this Contract will be effective unless it is in writing and signed by both parties."

Kopycinski also told investigators via email that ODRC had contacted ODAS on November 30, 2016, to begin the process of incorporating the verbal agreement into the existing contract between Aramark and ODRC. On December 16, 2016, Kopycinski informed investigators that this request was made by ODRC once the issue was brought to the department's attention by the Office of the Ohio Inspector General.

ODRC provided investigators with a copy of the amended sections of the contract between ODRC and Aramark, effective January 13, 2017. This amendment incorporated the previous verbal agreement between ODRC and Aramark for certain paper product expenses.

Additional Expenses: Food

Further review of ODRC's support documentation for additional expenses also revealed that ODRC paid an additional \$6,620.58 for the increased cost of the ODRC-approved construction

menu served to inmates at the Northeast Reintegration Center (NERC) from August 25, 2016, through November 23, 2016, and for a shorter period of time at the Richland Correctional Institution. Investigators further noted that ODRC paid Aramark an additional \$17,011 for pizza and catered meals served to NERC inmates on select days in addition to the construction menu items in September and October 2016.

Kopycinski explained to investigators in emails that the NERC kitchen underwent a major renovation during this time and the entire kitchen was shut down for an extended period of time. During this same time period, the food production and serving areas at Richland Correctional Institution were also renovated. Because of these renovations, ODRC and Aramark dieticians created a construction menu to be served to the inmates. Kopycinski stated that he and both ODRC and Aramark dieticians discussed the master menu changes during conference calls. During these conference calls, Kopycinski stated that he provided a verbal approval for the additional costs to be billed, did not document these approvals in writing, and that the ODRC deputy director was aware that the construction menus would result in additional costs.

Because of the limited variety of food, limited cooking ability, and the potential for inmates becoming disgruntled, ODRC requested that during the construction period, Aramark provide the construction menus. In addition, Aramark was requested to serve the additional food items on select normal construction menu days in accordance with Section K of the Aramark contract. This section provided the "... contractor may be requested to provide food service for special meetings or events held within an institution on an as-needed basis."

Investigators also noted that Aramark invoiced ODRC for the additional cost for only those meals served, which was less than the inmate midnight census count during the period the construction menus were used. Kopycinski told investigators in a January 25, 2017, email that Aramark had approached him and recommended,

... during the construction periods at both NERC and Richland Correctional Institution that it would be better (cheaper) for ODRC to be charged the actual meals served due to the additional construction costs rather than the midnight census which would be at 100%.

Kopycinski explained that Aramark provided ODRC with the inmate counts, that ODRC did not have a staff member present to verify the actual meal counts, but that the "... number of meals served presented to ODRC by Aramark for payment during the construction period was less than the 100% midnight census for the same time period."

Investigators reviewed the meal production menus for the dates that Aramark purchased pizza and the catered meals and determined that Aramark served these items to the inmates in addition to the items identified on the master menu for that date. However, investigators noted that ODRC reimbursed Aramark for \$350 tips given to the vendors supplying Aramark the pizza to be served to the inmates.

On January 11, 2017, Kopycinski told investigators in an email that he had discussed inclusion of the tips in the expenses ODRC had paid to Aramark with the ODRC Division of Business Administration chief. Kopycinski stated that the ODRC Division of Business Administration chief had determined that ODRC should not have paid Aramark for the tips Aramark added for the purchase of pizza. Kopycinski stated that ODRC had calculated \$350 in tips paid to Aramark and that Aramark had agreed to credit ODRC for the total tip amount on the next monthly invoice. On January 27, 2017, Aramark submitted an invoice to ODRC for services rendered during the period from December 29, 2016, through January 25, 2017, which included a credit for the \$350 of tips previously billed to and paid by ODRC.

Other Issues

During the investigation, investigators noted prescribed ODRC forms used to support credits billed by Aramark were not completed in their entirety, information on the prescribed forms was not verified for accuracy, and approvals for billing of the additional expenses billed by Aramark to ODRC was not reflected on the documentation submitted. Kopycinski explained to investigators that he typically discussed expenses with Aramark officials, provided verbal approvals, and did not maintain written documentation showing his approval of the additional expenses.

CONCLUSION

On May 18, 2016, the Office of the Ohio Inspector General initiated an investigation to review the contract provisions detailing payments to be made by the Ohio Department of Rehabilitation and Correction (ODRC) to Aramark Correctional Services LLC (Aramark) for food services provided in accordance with the contract. The Office of the Ohio Inspector General reviewed invoices submitted by Aramark totaling \$58,906,446.61 for meals served to inmates using the daily midnight census count.

Investigators determined an additional 13 inmates were included in the daily midnight census counts used by Aramark to calculate the amounts owed by ODRC for the inmate meals served. ODRC representatives explained that an error was identified in July 2014 between the calculated total of the individual institutions and the total reported in the SNAPS report used by Aramark. Based on discussions at a July 2014 meeting attended by ODRC and Aramark representatives, ODRC stated they had directed Aramark to add 13 inmates to the daily London Correctional Institution inmate count.

After further investigative inquiries, ODRC notified the Office of the Ohio Inspector General in December 2016 that the 13 inmates were, in fact, test inmates and should not have been included in the daily counts used by Aramark to calculate the number of meals served. On March 13, 2017, ODRC received a credit in the amount of \$57,192.64 for the 13 test inmates added to the daily inmate count during the period from September 18, 2013, through November 23, 2016.

Investigators further noted that ODRC had paid Aramark for \$42,660.22 of additional expenses which included \$350 for tips paid when purchasing supplemental food at ODRC's request. After investigators questioned the tip reimbursement, ODRC determined it had improperly reimbursed Aramark for the tips and subsequently received a \$350 credit from Aramark on the January 27, 2017, invoice.

Lastly, investigators noted that ODRC had also reimbursed Aramark \$37,682.73 for 50 percent of the cost of paper goods incurred during kitchen renovations or equipment repair during the period from July 30, 2015, through September 28, 2016. ODRC representatives explained to

investigators that ODRC and Aramark had verbally agreed to split these costs and that this agreement was "... not part of the original contract but an agreement between both parties."

This verbal agreement was contrary to Attachment Three General Terms and Conditions, Part Six: Construction of the contract between ODRC and Aramark, *Amendments – Waiver* which provided, "No change to any provision of this Contract will be effective unless it is in writing and signed by both parties."

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.

The contract between Aramark and ODRC was amended effective January 13, 2017, to include the previous verbal agreement made between ODRC and Aramark in the summer of 2015.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks that the director of the Ohio Department of Rehabilitation and Correction respond within 60 days with a plan detailing how these recommendations will be implemented:

1. Consider amending the contract between ODRC and Aramark to incorporate the process for developing construction menus and using an alternative billing basis for Aramark to invoice for inmate meals served during the renovation of correctional institution kitchen and food preparation facilities.
2. Consider amending the contract between ODRC and Aramark to incorporate a definition of a special event or meeting to support Aramark's ability to invoice ODRC for meals served in these situations.
3. Consider developing a form to attach to the monthly Aramark invoices which summarizes conversations between ODRC and Aramark regarding additional expenses being incurred. It is suggested that the form identify the section of the contract

permitting the expense to be charged to ODRC by Aramark, an explanation of the circumstances that are resulting in the expense, and document ODRC's approval for Aramark to bill the additional expense.

4. Consider updating ODRC policies and procedures to incorporate review procedures to ensure that on incident forms all questions are answered, hours and associated hourly rates are verified, and that the forms were completed within the prescribed timeframe.

REFERRAL(S)

This report of investigation will be provided to the Ohio Auditor of State for consideration.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Rehabilitation & Correction

FILE ID #: 2016-CA00020

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

Jill Jones
KEEPER OF RECORDS

CERTIFIED
June 15, 2017

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