



#616
December 18, 2017

Report to the Mississippi Legislature

A Compliance Review of Mississippi Department of Corrections' Food Service Delivery Contract



The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and one Representative appointed from each of the U.S. Congressional Districts and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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December 18, 2017

Honorable Phil Bryant, Governor
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Honorable Philip Gunn, Speaker of the House
Members of the Mississippi State Legislature

On December 18, 2017, the PEER Committee authorized release of the report titled
***A Compliance Review of Mississippi Department of Corrections' Food Service
Delivery Contract.***

A handwritten signature in cursive script that reads "Richard Bennett".

Representative Richard Bennett, Chair

This report does not recommend increased funding or additional staff.

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A Compliance Review of Mississippi Department of Corrections' Food Service Delivery Contract

Executive Summary

Introduction and Background

On July 1, 2016, Aramark began providing on-site management of the Mississippi Department of Corrections' food service delivery program, responsible for food preparation and delivery to 22 correctional locations throughout the state. "Management" includes supplying and preparing daily meals for inmates, maintaining kitchen equipment, and ensuring clean, safe kitchens and food preparation areas. With an estimated total value of approximately \$36 million, the contract will continue through June 30, 2019, with a one-time option for a one-year renewal that would extend the contract to June 30, 2020.

Aramark Compliance with the MDOC Food Service Delivery Contract

Under terms of the contract, Aramark is to provide and deliver three meals per day that meet acceptable nutritional standards to all inmates in MDOC facilities at a capitated rate¹ that differs depending on the type of correctional facility. The costs of the contract are to be offset by use of commodity programs² of the United States Department of Agriculture and through use of farm products produced by MDOC farms.

The contract requires Aramark to provide on-site management staff at all kitchen facilities during hours of operation, as well as any warehouse and delivery personnel needed to ensure efficient and timely distribution of food. Furthermore, these employees are to be trained in correctional food services, and food service personnel are to be ServSafe certified, as appropriate, if working in food preparation areas. In addition, Aramark must handle routine maintenance and service for kitchen equipment at the Mississippi State Penitentiary (Parchman), Central Mississippi Correctional Facility (CMCF), and South Mississippi Correctional Institution (SMCI) as well as for vehicles used in food service operations.

¹See Appendix B, page 21.

²USDA commodity programs offer food items, dependent upon availability, to state and local governments and some nonprofits at reduced or no cost to the recipient by either partial or complete reimbursement of the cost of the food items.

Staffing

Aramark is not providing the staffing levels required by contract. PEER review of staffing levels at three prison facilities³ revealed that Aramark had hired subcontractors for maintenance positions and had consolidated titles/duties into fewer positions than stipulated in the contract. In neither instance did the Mississippi Department of Corrections grant Aramark authority to alter its staffing obligations or act to enforce the contract terms.

Training

Although the contract stipulates that Aramark employees receive 40 hours of MDOC orientation training pertaining to MDOC policy and procedures, as well as inmate interaction safety training, Aramark is providing new employee training through its own in-house program.

Use of Reduced-Cost Food Programs

The contract also requires Aramark to maximize the use of reduced-cost food programs, such as USDA commodity programs, and use of MDOC farm products when available to offset the costs of the contract. The Mississippi Department of Corrections has sole responsibility to enter into and participate in these programs for its own benefit. However, since 2006, it has not participated in any USDA commodity program, and in recent years the production of food commodities on prison farms has declined, both circumstances potentially resulting in higher food service costs.

Nutritional Standards

Under terms of the contract, Aramark is to provide and deliver three meals per day that meet acceptable nutritional standards. The contract requires that meals meet specified recommended daily allowances for caloric and nutritional intake. An Aramark nutritionist reviews the caloric and nutritional value of the meals provided by Aramark at Parchman, CMCF, SMCI, the community work centers, and the restitution centers. However, the MDOC does not have an independent nutritionist on staff or on contract to review Aramark's menus for compliance with the standards required under contract terms.

Required Documents

In reviewing health inspection and permit records, PEER noted that the Mississippi Department of Corrections allowed Aramark to operate without having food permits (at least five

³Parchman, CMCF, SMCI.

months) because it did not require Aramark to submit proof of food permits in a timely manner. In addition, Aramark did not provide an emergency feeding plan, as required by the contract, to the MDOC until five months into the contract, and details of the plan indicated that it would not go into effect until one week after the occurrence of an emergency.

Aramark Compliance with State Safety Standards

The Mississippi State Department of Health has conducted inspections at each of the three public prisons since Aramark's contract began on July 1, 2016: three at CMCF, three at SMCI, and six inspections at Parchman (where critical violations led to repeat inspections).

Mississippi State Penitentiary at Parchman

The Mississippi State Department of Health closed one of two production kitchens approximately three weeks into the Aramark contract in July 2016 after finding poor conditions, repeated violations, and inoperable equipment. After the Mississippi Department of Corrections rectified these issues, the kitchen reopened in June 2017. However, the second kitchen was subsequently closed because of structural damage and equipment issues and is now used exclusively as a serving area. Aramark received a "B" for both kitchens during its permit renewal inspection in October 2017.

Central Mississippi Correctional Facility

Aramark received an "A" on its original permit inspection on August 9, 2016, followed by a "B" in February 2017, and a "B" on its most recent inspection for renewal of its permit on September 14, 2017.

South Mississippi Correctional Institution

Aramark received an "A" for its original permit inspection on October 31, 2016, followed by a "B" on May 16, 2017, and a "B" during its permit renewal inspection October 5, 2017.

Recommendations

1. MDOC officials should enforce the personnel staffing requirement provisions of the contract regarding maintenance personnel at each state prison. If Aramark continues to leave these positions vacant, the Mississippi Department of Corrections should exercise the penalty provisions of the contract relating to unfilled staffing positions to recoup unrealized benefits of the positions.

2. The Mississippi Department of Corrections should review Aramark's in-house orientation training materials to ensure that they meet employee safety training equivalent to what the department had previously provided. If it finds Aramark's in-house training satisfactory, the MDOC should grant Aramark, in writing, official permission to continue new employee training using its in-house materials.
3. The Mississippi Department of Corrections should seek the assistance of Mississippi Department of Health nutrition and dietetic staff prior to approving any new quarterly menus or ad hoc menu changes made by Aramark staff. If such assistance is not available, the department should consider contracting with an independent nutritionist/dietitian to conduct such periodic reviews.
4. As contemplated in the current food service contract and in order to reduce its food expenses, the Mississippi Department of Corrections should make application to and participate in a United States Department of Agriculture commodity program.
5. During the next available contract amendment period or contract negotiation, the Mississippi Department of Corrections should be more precise in contract terms, including, but not limited to, the following:
 - identify or reference specific MDOC regulations that detail the requirements, examinations, or drug testing expected of new employees—including subcontractors—in MDOC facilities;
 - specify a more expeditious emergency feeding plan commencement; and
 - establish an adequate penalty clause for noncompliance with reporting requirements.

For more information or clarification, contact:

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Compliance Review of Mississippi Department of Corrections' Food Service Delivery Contract

Introduction

Authority

The PEER Committee reviewed the fulfillment of the food service delivery contract between the Mississippi Department of Corrections (MDOC) and Aramark Correctional Services, LLC (Aramark). The Committee acted in accordance with MISS. CODE ANN. Section 5-3-51 et seq. (1972).

Scope and Purpose

Currently, the Mississippi Department of Corrections contracts with Aramark to provide on-site food service management (conducted at the three main MDOC-operated prisons) and preparation and delivery of meals to inmates housed at 22 MDOC facilities throughout the state (see Appendix A, page 20). For this review, PEER limited its examination to contract compliance at the three MDOC-operated prisons listed in the food service contract: Mississippi State Penitentiary (Parchman), Central Mississippi Correctional Facility (CMCF), and South Mississippi Correctional Institution (SMCI). Meals prepared at these three facilities constitute the majority⁴ of meals prepared and served by Aramark under the contract.

Methodology

In conducting this assessment, PEER

- reviewed applicable state laws;
- reviewed Aramark's invitation for bid and contract as submitted and agreed to by Aramark and the Mississippi Department of Corrections;
- interviewed MDOC staff concerning contract monitoring, food service delivery, and prison farm production;
- interviewed United States Department of Agriculture (USDA) staff regarding food commodities programs;

⁴During the invoice period of April 6, 2017, through April 12, 2017, Aramark prepared 69,003 of 78,021 (88%) of meals for inmates housed at Parchman, CMCF, and SMCI.

- interviewed Mississippi State Department of Health (MSDH) Division of Food Protection personnel and reviewed MSDH enabling legislation regarding issuance of food permits;
- reviewed information from the MSDH website regarding food facility health inspection reports and procedures for applying for food permits;
- accompanied MSDH health inspectors during inspections of food preparation, storage, and serving areas at Parchman, CMCF, and SMCI; and
- analyzed billing invoices, warehouse delivery documents, menus, training material, work schedules, and other documentation regarding the daily operations and management of food services at the three main MDOC facilities.

Background

As stated in MISS. CODE ANN. Section 47-5-1 (1972), state law requires that individuals sentenced to terms in a state correctional facility receive humane treatment for the duration of their sentence. Reinforced by numerous federal laws, court decisions, and correctional industry best practices, delivery of meals that are both calorically and nutritionally adequate, as defined by national health and food organizations, constitute a basic component of humane treatment.

This chapter seeks to address the following questions:

- How did Aramark become the food service provider for the Mississippi Department of Corrections?
- What are the obligations of Aramark under the contract?
- How is the Mississippi Department of Corrections overseeing the performance of the Aramark contract?

Aramark Contract

At the conclusion of a bidding process that included four vendors, the Mississippi Department of Corrections awarded Aramark a three-year contract for the management of on-site food preparation and delivery to MDOC facilities, effective July 1, 2016.

On May 10, 2016, the Mississippi Department of Corrections issued a Notice of Intent to Award to Aramark a three-year contract, with a one-time optional one-year extension, for food preparation and delivery to MDOC facilities, effective July 1, 2016. Aramark was awarded the contract as second-lowest responsive and responsible bid after other vendors submitted incomplete proposals or could not meet the terms of their bids.

Subsequent to the award, the MDOC submitted the food service contract to the Personal Service Contract Review Board⁵ for review. The PSCRB and the Special Assistant Attorney General assigned to the PSCRB determined that the contract complied with all laws, rules, and regulations of the state and approved the execution of the contract according to its terms.

However, issues arose that threatened the viability of the contract, most notably Aramark's practice at one facility of preparing food based on participation rates (the percentage of the inmate population eating meals) as opposed to the inmate count (total inmate population) as directed in the contract. Within a few weeks of the MDOC's recognition of the problem, Aramark resolved it to the satisfaction of the contract and the department.

⁵The Personal Service Contract Review Board (PSCRB) governs the procurement of personal and professional service contracts in Mississippi. Personal or professional contracts in excess of \$75,000 entered into by state agencies must be approved by the board prior to implementation of the contract.

Obligations as Food Service Provider under the Contract

On July 1, 2016, Aramark began providing on-site management of the MDOC food service program, responsible for food preparation and delivery to 22 correctional locations throughout the state. “Management” includes supplying and preparing daily meals for inmates, maintaining kitchen equipment, and ensuring clean, safe kitchens and food preparation areas. With an estimated total value of approximately \$36 million, the contract will continue through June 30, 2019, with a one-time option for a one-year renewal that would extend the contract to June 30, 2020.

Signed on June 21, 2016, Aramark entered into a contract with the Mississippi Department of Corrections to provide food services for 22 state-operated correctional facilities from July 1, 2016, until June 30, 2019, with a one-year extension option. As the food service provider, Aramark is responsible for three aspects of food services:

- food preparation and delivery supervision;
- supervision, oversight, and management of inmate labor in the production of meals; and
- supervision, oversight, and management of Aramark personnel required to accomplish food service delivery.

Food Preparation and Delivery Supervision

Under terms of the contract, Aramark is to provide and deliver three meals per day that meet acceptable nutritional standards to all inmates in MDOC facilities at a capitated rate⁶ that differs depending on the type of correctional facility. The costs of the contract are to be offset by use of commodity programs⁷ of the United States Department of Agriculture and through use of farm products produced by MDOC farms.

Under the contract, Aramark manages food preparation and delivery services that encompass supplying food commodities, supervising food preparation, managing warehouse facilities, and ordering food commodities to be delivered to the following 22 MDOC correctional facilities:

- Mississippi State Penitentiary (Parchman);
- Central Mississippi Correctional Facility (CMCF), Rankin County;
- South Mississippi Correctional Institution (SMCI), Greene County;
- Youthful Offender Unit (YOU) located at CMCF;
- 14 community work centers (CWCs) located throughout the state; and
- four restitution centers (RCs) located throughout the state.

⁶See Appendix B, page 21.

⁷USDA commodity programs offer food items, dependent upon availability, to state and local governments and some nonprofits at reduced or no cost to the recipient by either partial or complete reimbursement of the cost of the food items.

Food preparation and delivery entails provision of quality food for three meals per inmate per day at each facility with meals being nutritionally compliant with the Recommended Dietary Allowances as approved by the Food and Nutrition Board, the National Academy of Sciences, the American Correctional Association, and the American Medical Association.

Aramark supervises on-site food preparation in kitchens located at Parchman, CMCF, and SMCI. Meals in these facilities are served in a cafeteria and/or delivered to units located on prison grounds. Under terms of the contract, Aramark is responsible only for preparation and delivery of meals to serving areas—ensuring that each inmate receives a meal is the responsibility of MDOC staff. Meals for YOU offenders are prepared at the CMCF kitchen and delivered to the YOU unit located at CMCF. For the 14 CWCs and four RCs, Aramark is responsible for ordering sufficient food commodities to allow for the preparation and provision of three meals per inmate per day. Each CWC and RC assigns MDOC personnel and inmates to prepare and serve meals at its facility.

In addition to providing warehouse staffing, Aramark must stock and issue commodities from MDOC warehouse facilities to allow for preparation and delivery of meals as specified in the contract. Aramark is required to maximize the use of foods obtained through any USDA commodity program as well as Mississippi Prison Agricultural Enterprises⁸ products to offset the costs of food delivery (the value of commodities from these programs is credited weekly against invoices issued to MDOC for food service delivery).

Under the contract terms, Aramark will deliver meals on a capitated rate that varies according to the number of inmates and the facility served. The inmate count is based on the midnight headcount⁹ at each facility named in the contract. For the first year of the contract (July 1, 2016, through June 30, 2017), the rates¹⁰ per inmate per day were as follows:

- \$2.985 for Parchman, CMCF, and SMCI;
- \$18.00¹¹ for YOU; and
- \$2.40 for CWCs and RCs.

⁸A division under MDOC's Institutions Division, Mississippi Prisons Agricultural Enterprises is responsible for the farming operations at Parchman and SMCI. In this program, inmates plant, harvest, and process several kinds of fruits and vegetables for use by MDOC facilities and inmates statewide.

⁹This is a daily count done by MDOC prison guards at midnight to determine the daily prison population.

¹⁰These values represent the price paid for the lowest number of inmates per facility in the compensation scales.

¹¹YOU meal costs are higher in relation to the other MDOC food service programs because in addition to the three meals delivered, YOU offenders must also be provided three snacks per day. Furthermore, the meals and snacks must be prepared in accordance with the National School Lunch Program guidelines and regulations, for which Aramark may not seek National School Lunch Program reimbursements.

The contract specifies the option for a yearly increase based on adjustments to the Consumer Price Index (not to exceed 5% per year) based on the midnight headcount at each facility named in the contract. On July 1, 2017, prices¹² were readjusted as follows:

- \$3.055 for Parchman, CMCF, and SMCI;
- \$18.423 for YOU;
- \$2.46 for CWCs and RCs.

(For a complete listing of current payment amounts based on inmate headcount, see Appendix B, page 21.)

Food Service Personnel Needed

Under terms of the contract, Aramark is to provide on-site management staff at all kitchen facilities during hours of operation, as well as any warehouse and delivery personnel needed to ensure efficient and timely distribution of food. Furthermore, these employees are to be trained in correctional food services, and food service personnel are to be ServSafe certified, as appropriate, if working in food preparation areas.

Aramark is obligated to supply personnel as specified in the contract for each facility to ensure food preparation and delivery in accordance with the terms of the contract, i.e., delivery of three meals per day per inmate that meet nationally accepted nutritional standards for healthy meals. At Parchman, CMCF, and SMCI, Aramark is to provide the necessary on-site management, warehouse, and delivery personnel, as determined by the MDOC, for the delivery of meals to the inmates in those facilities. For the YOU, CWC, and RC facilities, Aramark is obligated to order food commodities and ensure their delivery to the facilities. In addition, Aramark will provide support staff, such as nutritionists, to help develop menu options for MDOC facilities.

Currently, Aramark provides district and site managers; food service supervisors; production managers; a dietitian; maintenance, quality control, and warehouse managers; and route truck and other drivers. For a complete listing of all positions, at each facility, see Appendix C, page 22.

The contract requires Aramark employees to be trained in the areas of safety, sanitation, and food handling and to meet applicable requirements of the United States Food and Drug Administration, the Mississippi State Department of Health, and rules and regulations of the Mississippi Department of Corrections regarding the preparation and delivery of food. MDOC requires food service personnel “as appropriate” (as stated in the contract) to be ServSafe¹³ certified, and requires

¹²These values represent the price paid for the lowest number of inmates per facility in the compensation scales.

¹³The most recognized training and food safety certification, a ServSafe certification ensures food service personnel have been certified through the ServSafe Food Protection Manager Certification Examination accredited by the American National Standards Institute-Conference for Food Protection.

all personnel to receive 40 hours of MDOC in-service training per year pertaining to inmate-employee interaction and employee safety.

Throughout the term of the contract, MDOC reserves the right to make reasonable approval and rejection decisions of all staff offered by Aramark or any subcontractor that Aramark may seek to employ for purposes of the contract. Ultimately, the contract grants MDOC officials the right of refusal for reasonable rejections of any Aramark employee or subcontractor.

Equipment Maintenance and Service

Aramark must handle routine maintenance and service for kitchen equipment at Parchman, CMCF, and SMCI as well as for vehicles used in food service operations.

As specifically noted in terms of the contract, Aramark is to provide staff to perform routine maintenance and service on kitchen equipment located at Parchman, CMCF, and SMCI. In addition, Aramark is responsible for routine repair, maintenance, service, and fuel costs of the MDOC-furnished vehicles that are used in a food service capacity.

During the development of a request for proposal for the food service contract, the Mississippi Department of Corrections altered bidding requirements that would limit repair costs to 25% of the replacement cost of a piece of equipment or a vehicle. If costs exceed this 25% threshold, the MDOC determines whether to replace or repair the equipment or vehicle at its expense. In addition, damage to equipment that results from MDOC staff or inmate actions are the responsibility of the department.

Oversight of Food Services

MDOC's Food Service Director monitors the performance of its food service vendor for compliance with provisions of the contract.

Although prison officials and other staff at state prison facilities share responsibility for ensuring that food service operations are running smoothly and staying alert to problems that could interrupt inmate meal delivery, the Mississippi Department of Corrections has only one position dedicated to overseeing its food service contract.

Under contract terms, the MDOC Food Service Director, whose office is at Parchman, serves as the contract manager for its duration. The Food Service Director is the only dedicated full-time MDOC food service employee who actively monitors compliance with contract terms. This position acts as a liaison between Aramark and the MDOC in resolving contract disputes; oversees the delivery of food commodities to MDOC facilities; reconciles financial documents generated from the contract; approves all payments made to Aramark; and

monitors Aramark and MDOC compliance with the terms of the contract.

According to the current Food Service Director, he also

- monitors the performance of Aramark employees;
- works with Aramark to ensure the uninterrupted delivery of meals to inmates;
- ensures that Aramark prepares sufficient food for the inmate population and that it provides surplus food items to inmates;
- ensures food products comply with contract terms and meet preferred food purchasing options;
- receives and responds as appropriate to food-related complaints from state inmates.

In addition, although neither a dietitian nor nutritionist, he

- suggests to Aramark quarterly menu changes designed to improve the menu and replace unpopular items;
- reviews menus for adequate nutritional and caloric content; and
- verifies Aramark's use of correct portion sizes.

The Food Service Director reported that some MDOC personnel participate in food services, such as monitoring delivery of food to outer units; however, no additional MDOC personnel monitor the food service contract or food delivery. The MDOC Food Service Director conducts on-site reviews at CMCF and SMCI monthly and the CWCs and RCs quarterly to monitor contract compliance and resolve any issues at these facilities.

Aramark Compliance with the MDOC Food Service Delivery Contract

Aramark began providing food services for the Mississippi Department of Corrections on July 1, 2016, including warehousing, preparation, and delivery of food as needed for inmate populations in MDOC facilities throughout the state. Early on, several issues emerged that threatened the viability of the contract, most notably Aramark's practice at one facility of preparing food based on participation rates (the percentage of the inmate population eating meals) as opposed to the inmate count (total inmate population) as stipulated, disputes over portion sizes, Aramark's refusal to pay for employee drug testing as required by MDOC policy, and ongoing equipment maintenance disputes. However, the MDOC and Aramark have resolved critical contract dispute areas, such as food production guidelines for prison populations and drug testing of Aramark employees.

This chapter examines Aramark's compliance with the following:

- staffing,
- employee training,
- use of reduced-cost food programs,
- nutritional standards, and
- required documents.

Staffing Requirements

Aramark is not providing the staffing levels required by contract. In addition, Aramark has subcontracted maintenance functions and consolidated job titles and duties without receiving prior MDOC approval.

As stated previously, the contract requires Aramark to provide staffing at certain agreed-upon levels (see Appendix C, page 22). However, PEER review of staffing levels at three prison facilities¹⁴ revealed that Aramark had hired subcontractors for maintenance positions and had consolidated titles/duties into fewer positions than stipulated in the contract. In neither instance did the Mississippi Department of Corrections grant Aramark authority to alter its staffing obligations nor act to enforce the contract terms.

¹⁴Parchman, CMCF, SMCI.

Maintenance Personnel

Aramark is subcontracting maintenance personnel for the upkeep of equipment assigned to the production kitchens and subcontracting maintenance responsibility to third-party vendors without prior approval from the MDOC.

As specifically noted in terms of the contract, Aramark is to provide staff at Parchman, CMCF, and SMCI to

...be responsible for routine maintenance and servicing the kitchen equipment assigned to the operating kitchens at each major facility not to include replacement of an equipment or major component thereof.

The contract requires routine maintenance and service on equipment assigned to the production kitchens and vehicles used in the transport of food. Aramark and the MDOC agreed to contract terms that identified specific employee positions and staffing levels for maintenance positions at the three MDOC-operated prisons. Aramark is to provide maintenance positions as follows:

- one Maintenance and Asset Manager at Parchman;
- one Maintenance Manager at Parchman; and
- one Maintenance and Asset Manager at CMCF; and
- one Maintenance and Asset Manager at SMCI.

After reviewing staffing reports and conducting interviews with MDOC and Aramark employees, PEER determined that Aramark no longer provides the on-site maintenance personnel as required by the contract. Rather, when repairs cannot be made by inmates or MDOC maintenance personnel, Aramark subcontracts for maintenance services despite having received no authority from the MDOC to do so and by doing so being in noncompliance with Section 6.40 of the contract:

...ARAMARK shall not assign, subcontract or otherwise transfer this agreement in whole or in part without the prior written consent of the MDOC, which the MDOC may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void....

MDOC officials stated that Aramark had not staffed the maintenance positions at any time since the contract began in July 2016, and according to MDOC's Food Service Director, the lack of on-site maintenance personnel often delays repairs, leaving equipment inoperable. However, the department has taken no actions to impose penalties, such as withholding payment, or to force Aramark to comply with contract terms.

Dual Role Employees

Aramark combined at least two employee positions outlined in the contract into a single position with multiple responsibilities. These actions are not specifically granted under the terms of the contract and were done without the approval of the Mississippi Department of Corrections.

As outlined in Exhibit E of the contract, Aramark must provide specific staff and, in most instances, a specified number of personnel at Parchman, CMCF, and SMCI (see Appendix C, page 22). The positions include food preparation supervisors who oversee kitchen operations, warehouse administrators, and delivery personnel. The contract grants Aramark discretion only to determine the number of route truck drivers needed to perform deliveries.

However, without the consent of the MDOC, Aramark has combined the duties of certain warehouse personnel with route truck drivers. Although the MDOC did not report that such an employee consolidation has adversely affected overall management of warehouse facilities or disrupted deliveries, it demonstrates further disregard for the contract terms and lack of oversight and contract enforcement by the MDOC.

Employee Training Requirements

Although the contract stipulates that Aramark employees receive 40 hours of MDOC orientation training pertaining to MDOC policy and procedures, as well as inmate interaction safety training, Aramark is providing new employee training through its own in-house program. The contract also requires employees to have an additional 40 hours of in-service training covering safety, sanitation, and food handling annually, which is being provided by and through Aramark.

Under contract terms, all new Aramark employees are required to receive 40 hours of MDOC orientation training during the first year of employment. This training includes instruction regarding employee-inmate relations in the performance of duties and is intended to improve employee safety.

Currently, Aramark provides new employee orientation in-house using its own instructional material. MDOC officials stated that the department did not grant Aramark permission to transfer training responsibilities to an in-house training program, nor has it reviewed the material included in this instruction for comparison to its own training material. MDOC orientation training covers such areas as proper employee-inmate interaction and MDOC policy; standards, procedures, and expectations; and instruction regarding employee to inmate relations in the performance of duties, e.g., prohibitions against fraternization and incident de-escalation techniques.

MDOC officials could not identify the specific date that Aramark ceased sending new employees to the 40 hours of MDOC orientation training required by contract terms but stated that it occurred several months into the contract.

MDOC's failure to ensure that new Aramark employees participate in MDOC orientation training or, alternatively, review and approve Aramark's in-house orientation programs indicates a breakdown in contract monitoring. Given the direct and consequential nature of this type of training to the performance of the contract and safety of Aramark employees, it is imperative that the MDOC be aware of the quality and caliber of training Aramark employees receive. Although the MDOC has the authority to bar any Aramark employee who has not received orientation training from the grounds of any correctional facility, the department has not exercised this authority.

In addition to orientation training, all on-site Aramark employees at Parchman, CMCF, and SMCI are required to participate in 40 hours of MDOC-approved in-service training each year. Aramark satisfies this by providing safety, sanitation, and food handling training.

Use of Reduced-Cost Food Programs

The contract requires Aramark to maximize the use of reduced-cost food programs, such as USDA commodity programs, and use of MDOC farm products when available to offset the costs of the contract. The Mississippi Department of Corrections has sole responsibility to enter into and participate in these programs for its own benefit. However, since 2006, it has not participated in any USDA commodity program, and in recent years the production of food commodities on prison farms has declined, both circumstances potentially resulting in higher food service costs.

Under contract terms, Aramark must prioritize the use, when available, of food commodities obtained through a USDA commodity program and from MDOC prison farms. Food products obtained through these sources are credited to the MDOC and reduce its payments to Aramark for food service delivery.

The Mississippi Department of Corrections has not participated in a USDA commodity program since 2006, having been removed from the active participants list after a program violation in 2005. According to MDOC officials, the department was unsuccessful in subsequent applications for re-entry, last applying in 2012. During PEER review, MDOC officials stated that the department plans to reapply to the USDA program in 2018.

MDOC continues to maintain farm operations at state prison facilities and incorporates those food commodities into inmate meals when available. But over the past several years, yield by MDOC farm facilities has noticeably declined as the department has scaled back production of crops that could be used for the food program in favor of cash crops.

Although the contract requires Aramark to maximize use of reduced-cost food programs, such as USDA commodity programs "when available," and use of MDOC farm products to offset costs of the contract, the department's failure to

properly apply or participate in a USDA commodity program, while prison farms are producing fewer food commodities, results in potentially higher food service delivery costs to the state.

Nutritional Standards

Under terms of the contract, Aramark is to provide and deliver three meals per day that meet acceptable nutritional standards.

An Aramark nutritionist reviews the caloric and nutritional value of meals provided by Aramark at Parchman, CMCF, SMCI, the community work centers, and the restitution centers. The contract requires meals meet specified recommended daily allowances for caloric and nutritional intake. However, the MDOC does not have an independent nutritionist on staff or on contract to review Aramark's menus for compliance with the standards required under contract terms. Although the MDOC Food Service Director did not voice concern about Aramark deviating from caloric or nutritional value contract requirements, staff of Aramark reported having altered menus, which may indicate a violation of contract terms regarding nutritional standards.

Required Documents

During review of the food service contract, PEER observed several instances of Aramark's failure to submit required contract ancillary documents and acquire food permits in a timely manner.

In reviewing health inspection and permit records, PEER noted that the Mississippi Department of Corrections allowed Aramark to operate without having food permits (at least five months) because it did not require Aramark to submit proof of food permits in a timely manner. MDOC officials, however, did not cite Aramark's actions as a critical concern.

Permits

Aramark did not apply for food permits from the Mississippi State Department of Health immediately when taking over food services for the MDOC and operated without a food permit for more than five months at Parchman, almost four months at SMCI, and one month at CMCF.

The Mississippi State Department of Health issues food permits to establishments that sell food for a period of one year, and a food permit is required before any food can be sold in Mississippi.

MISS. CODE ANN. Section 41-3-15(4) (1972) states:

*The State Board of Health shall have the authority:
...(f)(i) To establish standards for, issue permits
and exercise control over, any cafes, restaurants,
food or drink stands, sandwich manufacturing*

establishments, and all other establishments, other than churches, church-related and private schools, and other nonprofit or charitable organizations, where food or drink is regularly prepared, handled and served for pay; and (ii) To require that a permit be obtained from the Department of Health before those persons begin operation....

As previously noted, food facilities, such as those operating at the three main state prisons, are required by state law to have a food permit before they can begin operations. Permits are issued for a period of one year.

According to MSDH records and interviews with officials, the department issued Aramark's original food permits August 1, 2016, for the CMCF facility; October 25, 2016, for SMCI; and December 9, 2016, for Parchman. Aramark's contract to provide food services began on July 1, 2016, before issuance of its food permits by the MSDH.

PEER acknowledges the difficulty of acquiring food permits within 10 days of contract signing and prior to provision of food services. However, Aramark operated without obtaining its original food permit for more than five months at Parchman, almost four months at SMCI, and one month at CMCF and should have applied for its permits as soon as possible after taking over food services. Furthermore, MSDH officials reported that they would not do an inspection for renewal of Aramark's CMCF permit until Aramark remitted its permit renewal fees. During Aramark's inspection on September 14, 2017, PEER noted that its food permit had expired 44 days prior. Because Aramark did not remit payment for renewal of its permit in a timely manner, it operated with an expired food permit until September 14, 2017. Health inspections for renewal of food permits for SMCI and Parchman were conducted before expiration.

Emergency Feeding Plan

Aramark did not provide an emergency feeding plan, as required by the contract, to the MDOC until five months into the contract. In addition, details of the plan indicated that it would not go into effect until a week after an emergency occurred.

An emergency feeding plan outlines the vendor's contingency for providing uninterrupted food services should kitchen facilities become inoperable. As described in Article 1, Section 1.09 of the contract,

Aramark must provide uninterrupted regulation approved food services in the event of an emergency, disaster, utility outage, or any other event that may close the MDOC kitchens. Aramark will develop and provide adequate emergency plans and equipment to adequately feed inmates during emergency situations, which may include, but not limited to natural and/or

man-made disasters, power outages, gas outages, water outages, and/or other events that may affect the MDOC kitchen operations.

Although the contract does not stipulate a date by which such a plan was to be provided to the MDOC, the earliest documentation of Aramark's plan was dated January 11, 2017—six months into the contract.

Aramark contracted at a specified payment schedule for the use of mobile kitchen facilities capable of producing meals in the volume needed for the MDOC. The documentation refers to an entity called "Kitchens To Go," a private mobile cooking/catering company, and an agreement entered into with Aramark to provide mobile food facilities in the event of an emergency. However, as has been noted, MDOC officials did not view the delay in receiving the plan as problematic although the Food Service Director expressed concern over the details of the plan indicating its effective date of one week after the onset of an emergency.

Aramark Compliance with State Safety Standards

Because the Mississippi Department of Corrections contracts out its food services, the prison kitchens and food service operations are subject to inspection. The Mississippi State Department of Health has conducted inspections at each of the three public prisons since Aramark's contract began on July 1, 2016: three at Central Mississippi Correctional Facility, three at South Mississippi Correctional Institution, and six inspections at Parchman (where critical violations led to repeat inspections).

According to the MSDH website, Mississippi adopted the national standards of the 2013 United States Food and Drug Administration Food Code, with certain changes and additions. MSDH refers to these standards as the Mississippi Food Code.

MSDH inspects food facilities for the following reasons:

- to identify risk factors and critical violations present during the inspection, that, if not controlled, could result in a food-borne illness; and
- to educate the food establishment management and staff on the risk factors, potential problems, and preventive measures to eliminate violations.

In accordance with the permit application process, the MSDH performs an on-site health inspection prior to a facility beginning operations. A health inspection includes observation and tests to ensure that the facility is abiding by MSDH requirements for food storage temperatures as well as proper food handling and preparation practices and following proper sanitation and cleaning procedures. It also conducts annual permit renewal inspections.

The MSDH health inspection rating system reflects the finding of critical violations. Critical violations more likely lead to food contamination, illness, or other health risk. A grade of "A" indicates that no critical violations were found. A grade of "B" indicates critical violations were found but corrected during the inspection and no further corrective action is required. A grade of "C" indicates that critical violations were found and some or all of the violations were not corrected during the inspection. A facility also receives a grade of "C" when critical violations noted during the previous inspection are repeated (even if they were corrected during that inspection). If any violations constitute an immediate public health hazard, the MSDH may close a facility.

This chapter examines the results of state health inspections for food service operation permits and renewals at the three main state prison facilities during Aramark's food service delivery contract.

Mississippi State Penitentiary at Parchman

The Mississippi State Department of Health closed one of two production kitchens approximately three weeks into the Aramark contract in July 2016 after finding poor conditions, repeated violations, and inoperable equipment. After the Mississippi Department of Corrections rectified these issues, the kitchen reopened in June 2017. However, the second kitchen was subsequently closed because of structural damage and equipment issues and is now used exclusively as a serving area. Aramark received a “B” for both kitchens during its permit renewal inspection in October 2017.

Parchman previously operated two production kitchens located in Unit 29 and Unit 30. Aramark received a “C” on its first inspection on July 13, 2016, and the Unit 29 kitchen was subsequently closed on July 24, approximately three weeks after Aramark’s contract began, after finding poor sanitation conditions, an excessive number of repeated health inspection violations, and dilapidated and inoperable kitchen equipment.

According to the MDOC, it spent approximately \$1 million on new equipment, and after two subsequent MSDH health inspections was allowed to reopen the Unit 29 kitchen on June 14, 2017.

Because of structural damage and equipment issues, the MDOC closed its Unit 30 building production kitchen June 21, 2017, one week after the Unit 29 kitchen reopened. It has since operated as a serving area only.

PEER accompanied MSDH inspectors for Aramark’s annual permit renewal inspection of the Unit 29 and Unit 30 kitchens on October 24, 2017. Aramark received a grade of “B” during the inspection;¹⁵ it was cited for the following:

- uncovered and unsealed food,
- storing meat and vegetables in same cooler,
- an ice machine in need of cleaning,
- flies in the kitchen area, and
- an improper amount of sanitizer in the three-compartment sink.

The MSDH inspector voiced concern about the seriously deteriorated condition of the floor in both kitchens and a significant amount of inoperable equipment that should have been marked as “out of order.” In addition, the inspector re-inquired about the large number of damaged or inoperable food warmers noted in a previous inspection and determined that Aramark had not replaced doors on its delivery trucks, resulting in food warmers falling out and becoming damaged.

¹⁵MSDH inspectors issued Aramark a single grade for Parchman even with two kitchens operational, and they continue to inspect a closed kitchen when being used as a serving area.

Central Mississippi Correctional Facility

Aramark received an “A” on its original permit inspection on August 9, 2016, followed by a “B” in February 2017, and a “B” on the most recent inspection for renewal of its permit on September 14, 2017.

Aramark received an “A” during its original permit health inspection of the CMCF kitchen on August 9, 2016, and a “B” on the following inspection on February 13, 2017. PEER accompanied MSDH inspectors for a permit renewal health inspection September 14, 2017. Aramark received a “B” for deficiencies including uncovered cooking kettles and a clogged drain in the food preparation kitchen; however, the CMCF had obtained a work order, and CMCF maintenance staff and inmates were working to make the repair. The MSDH inspector also voiced concern about the dangers of working on the seriously deteriorated kitchen floor.

South Mississippi Correctional Institution

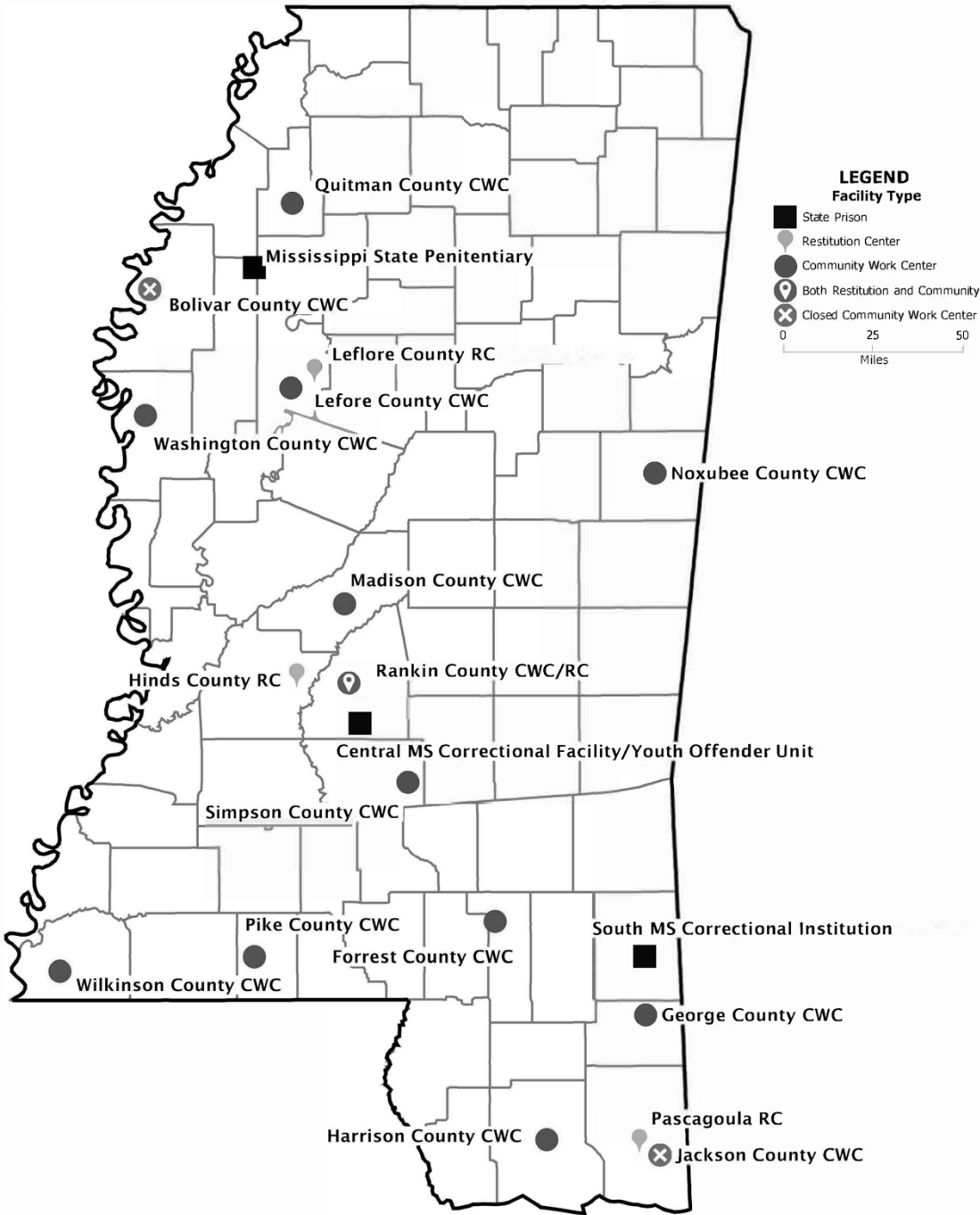
Aramark received an “A” for its original permit inspection on October 31, 2016, followed by a “B” on May 16, 2017, and a “B” during its permit renewal inspection October 5, 2017.

MSDH inspection reports indicate that Aramark received an “A” for its original permit inspection on October 31, 2016, and a “B” during its May 16, 2017, inspection. PEER accompanied MSDH inspection staff for Aramark’s annual permit renewal inspection on October 5, 2017. Aramark received a “B” and was cited for deficiencies that included a three-compartment sink having excessive sanitizer in the water, a bag of flour that should have been disposed of, and a stove vent hood with a missing part. The health inspector also expressed concern regarding the need to place out-of-order signs on inoperable equipment, leaking ceiling pipes, extensive corrosion of ductwork below the ceiling, and the dangers of working on deteriorating floors.

Recommendations

1. MDOC officials should enforce the personnel staffing requirement provisions of the contract regarding maintenance personnel at each state prison. If Aramark continues to leave these positions vacant, the Mississippi Department of Corrections should exercise the penalty provisions of the contract relating to unfilled staffing positions to recoup unrealized benefits of the positions.
2. The Mississippi Department of Corrections should review Aramark's in-house orientation training material to ensure that it meets employee safety training equivalent to what the department had previously provided. If it finds Aramark's in-house training satisfactory, the MDOC should grant Aramark, in writing, official permission to continue new employee training using its in-house materials.
3. The Mississippi Department of Corrections should seek the assistance of Mississippi Department of Health nutrition and dietetic staff prior to approving any new quarterly menus or ad hoc menu changes made by Aramark staff. If such assistance is not available, the department should consider contracting with an independent nutritionist/dietitian to conduct such periodic reviews.
4. As contemplated in the current food service contract and in order to reduce its food expenses, the Mississippi Department of Corrections should make application to and participate in a United States Department of Agriculture commodity program.
5. During the next available contract amendment period or contract negotiation, the Mississippi Department of Corrections should be more precise in contract terms, including, but not limited to, the following:
 - identify or reference specific MDOC regulations that detail the requirements, examinations, or drug testing expected of new employees—including subcontractors—in MDOC facilities;
 - specify a more expeditious emergency feeding plan commencement; and
 - establish an adequate penalty clause for noncompliance with any reporting requirements.

Appendix A: Mississippi Department of Corrections' Facilities under the Food Service Delivery Contract



SOURCE: Standing Joint Legislative Committee on Reapportionment and PEER illustration.

Appendix B: Pricing Schedule, Effective July 1, 2017

Cost Per Inmate Per Day

Number of Inmates Per Day	Rate (\$) Per Inmate Per Day
Below 6,660	Renegotiate
6,660-6,899	3.055
6,900-7,199	3.055
7,200-7,499	3.055
7,500-7,799	3.113
7,800-8,099	3.092
8,100-8,399	3.074
8,400-8,699	3.055
8,700-8,999	3.037
9,000-9,299	3.021
9,300-9,599	3.006
9,600-9,899	2.957
9,900-10,199	2.945
10,200-10,499	2.932
10,500-10,799	2.920
10,800 & Above	2.908

Youth Offender Meals

Number of Youth Offenders Per Day	Rate (\$) Per Youth Offender Per Day*
1-15	18.423
15-19	15.967
20-24	15.660
25-29	15.199
30-34	14.278
35-39	12.896
40-44	12.282
45-49	11.514
50 and above	10.747

*Youth Offender food service delivery requires three meals and three snacks per day per offender.

SOURCE: Amendment No. 1 to MDOC Food Service Contract, June 13, 2017.

Appendix C: Minimum Staffing Requirements

Management Staff at Mississippi State Penitentiary

District Manager (located at MSP)	1
Assistant District Manager	1
Primary Site Manager	2
Production Manager	1
Food Service Supervisor	10
Registered Dietitian	1*
Maintenance & Asset Manager	1
Maintenance Manager	1
Quality Control Manager	1
Warehouse Manager	2
Warehouse Inventory Manager	1
Route Truck Drivers on MSP	As many as needed
18-Wheeler Driver	1
Warehouse Driver	1

*District Manager assigned to MSP may be registered dietitian and serve all three facilities.

Management Staff at Central Mississippi Correctional Facility

Primary Site Manager	1
Food Service Supervisor	4
Production Manager	1
Quality Control Manager	1
Maintenance & Asset Manager	1
Warehouse Manager	1
Route Truck Drivers	As many as needed

Management Staff at South Mississippi Correctional Institution

Primary Site Manager	1
Food Service Supervisor	4
Production Manager	1
Maintenance & Asset Manager	1
Quality Control Manager	1
Warehouse Manager	1
Route Truck Drivers	As many as needed

SOURCE: MDOC Food Service Contract, June 21, 2016.



STATE OF MISSISSIPPI

DEPARTMENT OF CORRECTIONS

PELICIA E. HALL, Esq.
COMMISSIONER

December 14, 2017

James A. Barber, Executive Director
Legislative PEER Committee
501 N. West Street, Suite 301A
Jackson, MS 39201

*Re: Response to the Legislative PEER 2017 Compliance Review of MDOC's
Food Service Delivery Contract*

Dear Mr. Barber:

Thank you for the opportunity to review the 2017 Compliance Review of Mississippi Department of Corrections' Food Service Contract and addendum. Please accept this as MDOC's official response to the following PEER recommendations.

Recommendation No. 1: MDOC officials should enforce the personnel staffing requirement provisions of the contract regarding maintenance personnel at each state prison. If Aramark continues to leave these positions vacant, the Mississippi Department of Corrections should exercise the penalty provisions of the contract relating to unfilled staffing positions to recoup unrealized benefits for the positions.

Response: MDOC is aware of vacancies regarding maintenance staffing and has put Aramark on notice regarding such vacancies. When Aramark subcontracts positions as it relates to maintenance, there is oversight. The department will exercise penalty provisions, as needed, should the failure to fill the necessary positions persist.

Recommendation No. 2: The Mississippi of Corrections should review Aramark's in-house orientation training material to ensure that it meets employee safety training equivalent to what it previously provided. If the MDOC finds Aramark's in-house training satisfactory, the MDOC should grant Aramark, in writing, official permission to continue new employee training using Aramark's in-house materials.

Response: MDOC's policy, 04-02-01, requires contractors to attend MDOC's new employee orientation. MDOC has reinforced this policy with Aramark.

Recommendation No. 3: The Mississippi Department of Corrections should seek the assistance of Mississippi Department of Health nutrition and dietetic staff prior to approving any new quarterly menus or ad hoc menu changes made by Aramark staff. If such assistance is not available, the department should consider contracting with an independent nutritionist/dietitian to conduct such periodic reviews.

Response: MDOC will consult the Mississippi Department of Health in seeking an independent nutritionist/dietitian for review/approval of quarterly menus. It should be noted that MDOC's menus are in compliance with American Correctional Association standards that require a 2900 calorie diet.

Recommendation No. 4: As contemplated in the current food service contract and in order to reduce its food expenses, the Mississippi Department of Corrections should make application to and participate in a United States Department of Agriculture commodity program.

Response: MDOC intends to pursue avenues to partner with the United States Department of Agriculture as appropriate for its food service needs.

Recommendation No. 5: During the next available contract amendment period or contract negotiation, the Mississippi Department of Corrections should be more precise in contract terms, including, but not limited to, the following:

- Identify or reference specific MDOC regulations that detail the requirements, examinations, or drug testing expected of new employees--including subcontractors--in MDOC facilities;
- Specify a more expeditious emergency feeding plan commencement; and
- Establish an adequate penalty clause for noncompliance with any reporting requirements.

Response: MDOC acknowledges that contractual language can always be more specific and will tighten terms with future contracts where necessary. It should be noted that MDOC's contract with Aramark was approved by the Personal Service Contract Review Board prior to the commencement of the contract.

MDOC is committed to providing "humane treatment" for those incarcerated in its prison system "in the most efficient and economical manner possible." MDOC has spent considerable resources to improve the quality of food services offered to inmates. Integral to this process is preserving the integrity of the state procurement process to ensure the department is getting the very best food services at the best price for the State of Mississippi in full compliance with state law and regulations.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,



Pelicia E. Hall
Commissioner, MDOC

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