



New York City Comptroller
Scott M. Stringer

NEWS

PRESS RELEASE

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News Release

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COMPTROLLER SCOTT M. STRINGER AUDIT UNCOVERS MILK MESS AT NYC DEPARTMENT OF EDUCATION

DOE Failed to Do Due Diligence on Company That Defaulted on Contract

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NEW YORK, NY—The New York City Department of Education (DOE) failed to employ proper safeguards and controls in awarding multi-million dollar milk distribution contracts for City schools, making the City vulnerable to possible collusion, New York City Comptroller Scott M. Stringer announced today. The [findings of the audit](#) have been referred to the United States Department of Justice for further investigation.

“DOE ignored red flags that its milk contracts may have been tainted,” Stringer said. “We see possible collusion when rival bidders become business partners within two months of being awarded contracts. Instead of doing its due diligence, DOE needlessly put taxpayers at risk. Moving forward, DOE must put tighter controls in place to ensure that bids are made independently and that bidders have the financial ability to deliver the services they promise.”

Keeping close tabs on the city’s school food supply chain is vital to protecting both the City’s physical and fiscal health. New York City serves more meals and spends more money on those meals than any other U.S. government entity outside of the Department of Defense—some 850,000 meals each day. Saving just one penny on the cost of each meal through better controls adds up to big-time savings for taxpayers—more than \$1.5 million per year.

The audit examined three contracts worth \$134 million for the supply and delivery of milk to City schools from November 2008 to August 2013. The three winning vendors were Beyer Farms, Inc., Elmhurst Dairy, Inc. and Bartlett Dairy, Inc. The largest contract, totaling \$111 million, went to Beyer, for milk delivery in Brooklyn, Queens and the Bronx.

The audit found that DOE lacked adequate procedures to detect warning signs of possible collusion. The three winning bidders began as competitors, each vying for the same contracts, but became business partners within two months of the contracts being awarded. Beyer and Elmhurst, which had won the lion’s share of the distribution bids in August and September 2008, subcontracted the majority of that work in October 2008 to their former competitor, Bartlett.

PERCENTAGE OF MILK DISTRIBUTION AWARDED

SEPTEMBER 2008



77%

**BEYER
FARMS**



17%

**ELMHURST
DAIRY, INC.**



6%

**BARTLETT
DAIRY**

PERCENTAGE OF MILK DISTRIBUTION

FOUR WEEKS LATER - OCTOBER 2008



**BEYER
FARMS**

0%

**ELMHURST
DAIRY, INC.**

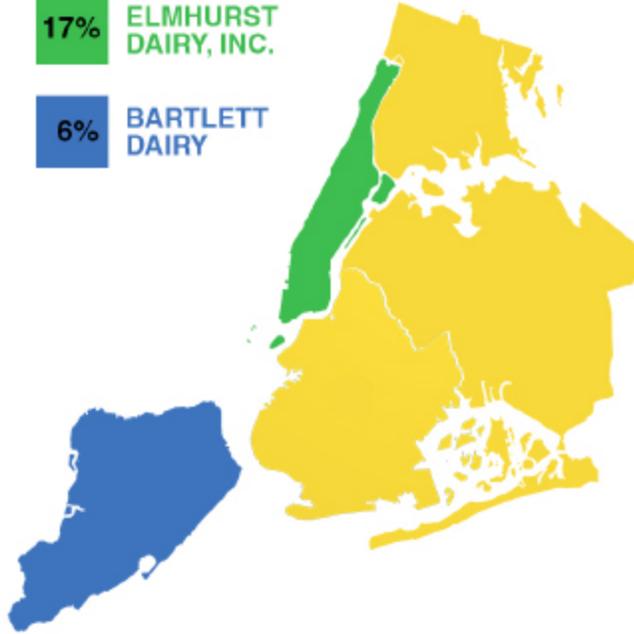


**BARTLETT
DAIRY**

77% BEYER FARMS

17% ELMHURST DAIRY, INC.

6% BARTLETT DAIRY

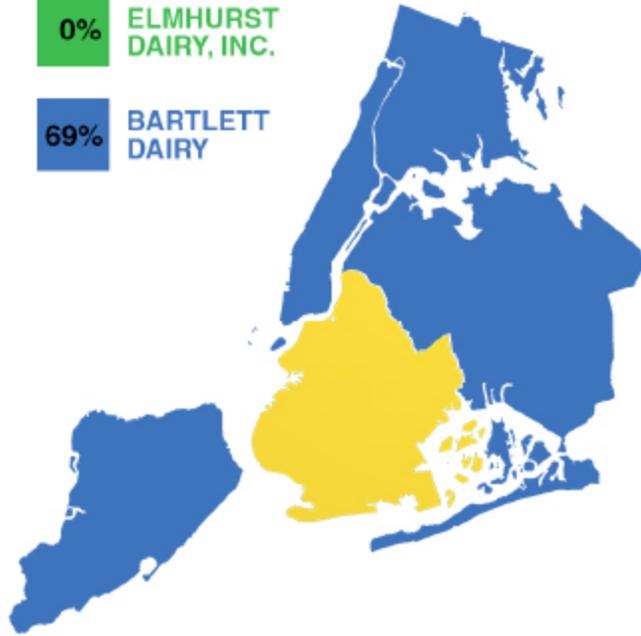


PERCENTAGE OF MILK DISTRIBUTION AWARDED
AUGUST / SEPTEMBER 2008

31% BEYER FARMS

0% ELMHURST DAIRY, INC.

69% BARTLETT DAIRY



PERCENTAGE OF MILK DISTRIBUTION
AFTER SUBCONTRACTING OCTOBER 2008

Before

After



**BEIER
FARMS**

PERCENTAGE OF MILK
DISTRIBUTION AWARDED
SEPTEMBER 2008



**ELMHURST
DAIRY, INC.**



**BARTLETT
DAIRY**

PERCENTAGE OF
MILK DISTRIBUTION
FOUR WEEKS LATER - OCTOBER 2008



**BEIER
FARMS**

0%

**ELMHURST
DAIRY, INC.**



**BARTLETT
DAIRY**

Department of Education Ignored Red Flags



THREE BIDDERS REPORTED THAT THEY WOULD ALL USE ELMHURST AS THEIR MILK PROCESSOR



BIDDERS HAD VARIOUS FINANCIAL OBLIGATIONS TO EACH OTHER



AN INDIVIDUAL WAS CONNECTED TO 2 BIDDERS AT THE TIME OF THEIR SUBMISSIONS TO THE CITY

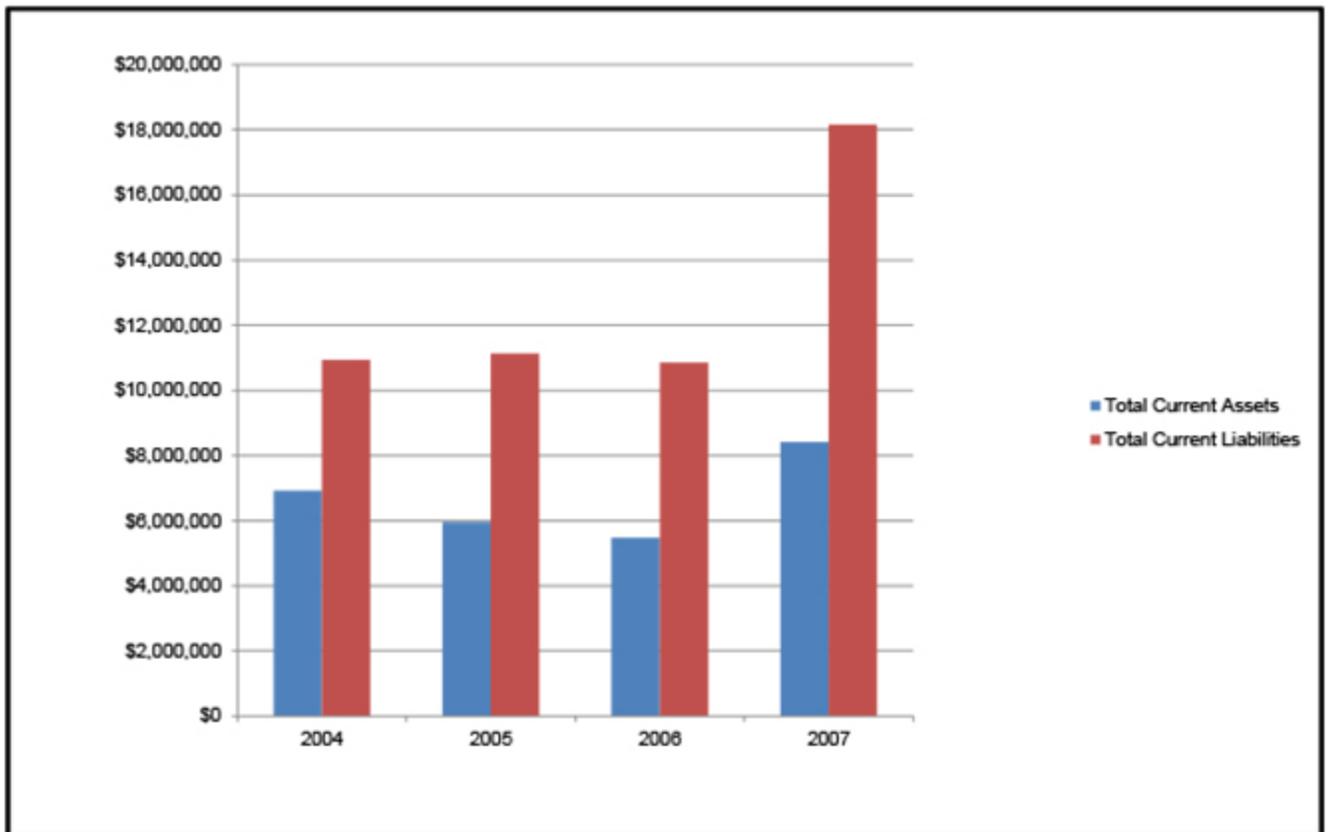


TWO OF THE BIDDERS HAD PRIOR CONVICTIONS OF PRICE FIXING RELATED TO MILK CONTRACTS FROM THE 1980S

- Large ~~to~~ # of car notes (22)
- Notes secured by equipment.
- Truck leases
- Line of credit received by corporate assets
- Notes payable to other companies
e.g. Hunt, PUSCO, etc.
- Everything (the whole company + gift)
Appears to be on "margin". What
measures have you (Bayer) taken
to ensure survival should
the credit lines / loans get
called by the lender.

DOE procurement analyst review of Bayer's Financials.

Comparison of Beyer's Total Current Assets to Total Current Liabilities for Calendar Years 2004–2007





Comptroller's Office Recommendations to the Department of Education

1. DOE should develop and implement adequate written procedures to detect the warning signs of possible collusion.
2. The Agency should put written procedures in place to identify and flag troubling bidders before it is too late.
3. DOE should develop and implement procedures to ensure that a comprehensive analysis of the financial capacity of low bidders is conducted prior to any contract award.



City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER



MANAGEMENT AUDIT

Marjorie Landa

Deputy Comptroller for Audit

Audit Report on the Department of Education's Awarding of Milk Distribution Contracts

[123456789101112](#)

To download a copy of the slides in pdf [click here](#)

As a result of that subcontracting, Bartlett's percentage of milk delivery rose from 6% to almost 70%, all before the first carton of milk was delivered. Furthermore, Beyer and Elmhurst failed to provide any information that they planned to use subcontractors in their original bids, even though the Request for Bids required them to do so.

"All of these warning signs should have raised concerns at DOE, and we have referred the matter to the United States Department of Justice for further investigation," Stringer said.

The audit also found that DOE failed to adequately assess the financial health of bidders. Beyer's financial statements clearly indicated a high risk of default—its debt had soared in 2007 and its ratio of current assets to current liabilities was far below industry competitors. DOE not only failed to properly analyze the bidder's financial statements, it disregarded the warnings of one of its own analysts, who stated that everything appeared to be "on the margin." Beyer subsequently went bankrupt in 2012, leaving DOE scrambling for a replacement. DOE is now in the process of procuring new milk distribution contracts.

The audit urged DOE to:

1. Develop and implement adequate written procedures to detect the warning signs of possible collusion;
2. Put written procedures in place to identify and flag troubling bidders before it is too late;

3. And develop and implement procedures to ensure that a comprehensive analysis of the financial capacity of low bidders is conducted prior to any contract award.

“I am pleased that DOE has now agreed with our recommendations to institute tougher scrutiny of future bidders. We simply cannot allow these kinds of weak procurement practices to continue,” Stringer said.

To read a copy of the full audit, please [click here](#).

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