

News from Attorney General Andrew Cuomo

Department of Law
120 Broadway

New York, NY 10271

Department of Law
The State Capitol

Albany, NY 12224

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New York City Press Office / 212-416-8060 Albany Press Office / 518-473-5525
nyag.pressoffice@oag.state.ny.us

ATTORNEY GENERAL CUOMO ANNOUNCES \$20 MILLION SETTLEMENT WITH FOOD SERVICES COMPANY FOR OVERCHARGING NEW YORK SCHOOLS

Settlement part of ongoing, industry-wide investigation

NEW YORK, N.Y. (July 21, 2010) - Attorney General Andrew M. Cuomo announced today a \$20 million settlement with food services provider Sodexo for overcharging 21 New York school districts as well as the SUNY system.

An Attorney General investigation found that the company promised to provide goods at cost but failed to acknowledge rebates from suppliers, resulting in illegal overcharges to the schools. The investigation was sparked by former employees of Sodexo under the New York False Claims Act, which allows whistleblowers to come forward to disclose wrongdoing without fear of retribution. The settlement was unsealed in Federal Court in Massachusetts and is the largest monetary settlement under the Act that does not involve Medicaid funds.

The 21 schools and the SUNY system contracted with Sodexo to provide food services, vending and facilities services. An investigation by Attorney General Cuomo's Office determined that from September 1, 2004 through August 31, 2009, Sodexo received significant rebates from its suppliers without acknowledging or passing the savings on to these schools -- in violation of the contracts, as well as state and federal laws.

"This company cut sweetheart deals with suppliers and then denied taxpayer-supported schools the benefits," said Attorney General Cuomo. "The state and federal regulations regarding such contracts exist to protect taxpayers, and I thank the whistleblowers for having the courage to bring this to our attention."

The 21 K-12 schools participate in the New York State Education Department's Child Nutrition Programs and the National School Lunch Program, which require that rebates, credits and discounts be credited to the schools. On average, Sodexo received 14 percent rebates from its suppliers.

Pursuant to the False Claims Act, the settlement funds will be

distributed to the whistleblowers (\$3.6 million), New York State (\$15 million) and the impacted school districts:

- Children's Village and Abbott House (Westchester County): \$1.03 million
- Albion CSD (Orleans County): \$2,918
- Cheektowaga - Maryvale (Erie County): \$2,806
- Cleveland Hill Union FSD (Erie County): \$1,757
- Dunkirk City School District (Chautauqua County): \$2,210
- Elmwood Franklin School (Erie County): \$1,264
- Lackawanna City School District (Erie County): \$11,597
- Lakeshore CSD (Erie County): \$26,022
- Letchworth (Wyoming County): \$1,370
- Lewiston Porter CSD (Niagara County): \$2,113
- Lockport City School District (Niagara County): \$7,551
- Medina CSD (Orleans County): \$2,022
- North Tonawanda (Niagara County): \$12,121
- Royalton - Hartland CSD (Niagara County): \$2,440
- Salamanca City School District (Cattaraugus County): \$2,637
- Schenectady City School District (Schenectady County): \$14,044
- Sodus City School District (Wayne County): \$2,397
- Springville - Griffith CSD (Erie County): \$2,874
- Tonawanda City School District (Niagara County): \$3,541
- Tuckahoe Union FSD (Westchester County): \$8,556
- JCCA - Buffalo (Erie County): \$59,381

Sodexo must also implement greater transparency in the contracting process and create built-in safeguards to ensure that clients are informed about rebates. The company must:

- Disclose in future contracts with public entities that it is receiving rebates and indicate whether rebates will be retained by Sodexo or credited to the client
- Provide written disclosure to school district clients for the next two years that it is receiving off-invoice rebates
- Establish a hotline for clients to call with any questions concerning rebates
- Pay for an independent auditor's review of its off-invoice rebate program for the next three years

Sodexo is among the world's largest food services companies and the world's largest private food purchaser, with more than 313,000 employees serving 6,000 clients.

Attorney General Cuomo's investigation has revealed that it is common practice within the food service industry for service providers like Sodexo to leverage their size and market dominance to obtain rebates from vendors that supply food products, equipment and supplies. The investigation continues to examine the rebating practices of other large, multi-national corporate providers of food service and facilities

management to taxpayer-funded organizations within New York State. The Attorney General's Office urges individuals with knowledge of related conduct to contact the Public Integrity Bureau at 212-416-8090 or public.integrity@oag.state.ny.us.

The Attorney General's investigation is being conducted by Assistant Attorney General John F. Carroll with assistance from Assistant Attorney General Lauren Popper Ellis, Deputy Bureau Chief of the Public Integrity Bureau Monica J. Stamm, and David Marsh of the Executive Division. Special Deputy Attorney General for Public Integrity Ellen N. Biben and Deputy Attorney General in charge of the Division of Criminal Justice Thomas P. Higgins are supervising.

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