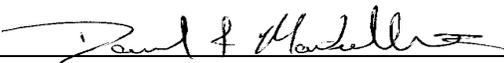


 <b>Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE <b>Vending Machine Contracts</b>		NO. 2770
			DATE 03/25/2015
SUPERSEDES DIR# 2770 Dtd. 09/19/2013	DISTRIBUTION A	PAGES PAGE 1 OF 5	DATE LAST REVISED
REFERENCES (Include but are not limited to)	APPROVING AUTHORITY 		

- I. **POLICY:** Installation of vending machines within facilities and correctional units to provide visitors and employees access to consumable items such as beverages, candy, and food must be covered by formal contracts. Contracts for these services must be negotiated to provide facilities with the highest quality merchandise at the lowest possible sales price while generating a reasonable commission on sales and providing a reasonable space rental fee. Superintendents of correctional facilities are authorized to negotiate such contracts in accordance with Central Office guidelines, subject to review and approval by the Division of Support Operations Contract Procurement Unit, the Attorney General, and the State Comptroller.
- II. **VENDING MACHINE UTILIZATION:** Vending machine contracts may be negotiated to service each of the areas or clientele listed below:
- Visitors, employees, and inmates
  - Employees only
  - As part of an employee dining room program
- A. Machines Accessible to Visitors, Employees, and Inmates
- Such machines are normally located in visiting rooms and lobbies, and are utilized by visitors and employees.
1. Contracts for this category of machines should provide a rental fee for the space occupied by each machine based on rates listed in Attachment A of this directive – Section D. The rates represent reasonable reimbursement for the actual costs for electricity, water, or any other service required for the normal operation of the machine. Such space rental fees shall be collected and deposited into the General Fund on an AC-909S, “Report of Moneys Received,” which can be found at <http://www.osc.state.ny.us/agencies/forms/index.htm>.
  2. Contracts for this category of machines shall provide for a percentage commission to be paid by the 15th of each month to the Superintendent of the correctional facility.
    - a. Such commissions are to be deposited to the facility’s “Inmate Occupational Therapy Account” and utilized in accordance with Directive #4760, “Inmate Organizations.”
    - b. Proceeds from these commissions are to be utilized for the benefit of the total inmate population and not for any single group of inmates or any purpose benefiting only a small segment of any facility’s population.

- c. Approval for the utilization of these funds must be consistent with the provisions of Directive #2771, "Inmate Occupational Therapy Fund." Facility requests must reflect the utilization of these funds for the benefit of the total inmate population and not an individual group or segment of the population.
- B. Machines Accessible to Employees Only: Such machines are normally located in areas not utilized by visitors, such as Correction Officer's rooms, locker rooms, and employee break rooms utilized by employees only.
1. Contracts for this category of machines should provide a rental fee for space identical to that listed in Section II-A above. Collection and deposit into the general fund on an AC-909S is required.
  2. Contracts for this category of machines are to provide for a percentage commission to be paid to the Superintendent of the correctional facility.
    - a. Such commissions must be deposited into an "Employee Benefit Account" to be utilized for the benefit of all employees.
    - b. The utilization of these funds should be approved by a selected committee of employees representing each bargaining unit or group at the facility. Recommended use of these funds would be in areas such as retirement dinner costs, employee recreation areas, annual family picnics, etc.
    - c. Make up of committee:
      - (1) The committee shall be proportionate to the number of employees in each employee group.
      - (2) The committee shall determine the number of ad hoc members as needed per function.
      - (3) The committee shall have the authority to make recommendations only to the Superintendent.
      - (4) The committee shall meet at least once a month.
      - (5) The committee shall elect a chairperson.
      - (6) Employee group representatives shall appoint their committee members from within their own employee organization.
      - (7) A financial report shall be provided on no less than a quarterly basis.
      - (8) Only those receipts pertaining to funds requested and obtained from the Employee Benefit Fund may be required by the committee.
      - (9) Minutes shall be taken at all Employee Benefit Fund meetings, with copies distributed to each member and to the Superintendent.
    - d. No single group of employees shall be the major beneficiary of these funds.
    - e. Overall responsibility for the proper use of these funds is placed with the facility Superintendent.
- C. Machines Utilized as an Integral Part of an Employee Dining Room Program: Normally, such machines are located in an area considered to be a part of the facility's employee dining room.

1. Contracts for this category of machines should provide a rental fee for space identical to that listed in Section II-A above. Collection and deposit into the general fund on an AC-909S is required.
2. Contracts for this category of machines are to provide for a percentage commission to be paid to the Superintendent of the correctional facility.
  - a. Such commissions are to be deposited in the "Employee Dining Room Account" and processed as a portion of the sales for this unit.
  - b. Incorporation of these funds in the monthly profit and loss statements will permit their utilization as regular income from the day to day operations of the unit.

### III. VENDOR REPORTS

- A. Monthly reports are required from the vendor reflecting a detailed explanation of sales by machine number and location. The Institution Steward shall develop an auditing procedure that can be used periodically to verify that the reported sales are accurate.
- B. Facilities shall negotiate a single contract that will cover the vending machines utilized in all three areas outlined above. In view of the reporting requirements, it is necessary that the contract specify that each machine must be identified specifically by a visible number to allow for the accurate collection and distribution of the commissions paid.
- C. Whenever vending machines are installed or replaced, or at a minimum once annually, the facility shall require the contract vendor to furnish the facility with an inventory of all vending machines operating on facility property. This inventory shall include the following information:
  - Type of machine
  - Exact location
  - Manufacturer's Make/Model
  - Serial Number
  - Year machine manufactured

**IV. REBIDDING/RENEWING CONTRACTS:** Contracts for vending machine services should be written for a three-year period with a renewal clause that provides the option to extend the contract for two additional one-year periods upon the written agreement of each party. Facilities must ensure that formal rebidding for vending machine services is conducted at least once every five years so that all prospective vendors are given equal opportunity to compete for the contract award. Please refer to Attachment A, "Guidelines For Vending Machine Contracts." An Invitation for Bid (IFB) template and contract template are available from the Division of Support Operations, Contract Procurement Unit. The mailbox is [SupportOps@doccs.ny.gov](mailto:SupportOps@doccs.ny.gov).

**V. POST AWARD REVIEWS:** On a quarterly basis the contract should be reviewed at the Internal Controls Meeting. Performance measures should be analyzed for compliance with terms of the contract. Continued need of the contract should be documented. Any changes that would be desired in subsequent contracts should be noted and referenced when negotiating subsequent contracts. All notations should be documented in the minutes of the meeting.

### **Guidelines For Vending Machine Contracts**

The following changes shall be incorporated in any future Invitation for Bid (IFB) or contracts for vending machine services:

- A. Vending machine contracts are not to include language referencing or requiring "Click-Click" sales, as these are not consumable items as specified in the Policy of this directive. Contract vending machines are not to be used for this purpose.
- B. The Department no longer requires that an IFB or contract specify a maximum age for vending machines in use. However, you should incorporate some language in the IFB/contract that states that vending machine equipment must be in good operating condition. You may also want to stipulate that a machine must be replaced if it malfunctions (x) number of times in (y) months (Example: three times in two months).
- C. Some bid proposals require the contractor to furnish a surety bond equal to a certain percentage (usually 50% of the total proposal-aggregate total of the price x projected annual sales of each item). Since the facility is entitled only to a percentage commission based on machine registers, not actual counted cash, a surety bond is not necessary and may prohibit a small business vendor from submitting a proposal.
- D. The monthly space rental fee may not be a bid item, but rather must be established in the proposal. To standardize the amounts charged by facilities, the Department has established the monthly rates as follows:

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|---|-------------------|
| • Energy Star rated beverage machines             | \$12.00 per month |
| • Non-Energy Star rated beverage/vending machines | \$20.00 per month |
| • Non-refrigerated vending machines               | \$4.00 per month  |

Microwave ovens and bill changing machines are exempt from the monthly space rental fee.

- E. Also, commissions should not be a bid item. Commissions should be established in the bid proposal based on past experience. While we realize that the rate of commission varies from vendor to vendor and machine to machine, it is in the Department's best interest to establish the commission rates and base the contract award solely on the proposed selling prices.
- F. The contract award should be based on an aggregate weighted dollar value, by multiplying the selling price times (x) the estimated volume of sales of each item (or group of items if the selling prices are the same), and adding the resultant totals. The estimated volume of sales for each item will be established by each facility based on its sales experience. This will provide for a single figure comparison to determine the low bid.

Each facility is required to establish its own commission rates, but the rate for any machine cannot exceed 30% of sales without written authorization from the Division of Support Operations. It is recognized that commissions are important to both the inmate and employee organizations, but the purpose of the vending machines is to provide a service to employees and inmate visitors. Therefore, primary consideration must be given to the selling prices since this benefits the users of the machines.

- G. Due to recent advancements in technology and the demand for cashless transactions, many vendor companies that serve New York State Correctional Facilities are replacing existing vending machines with modern technology advanced machines equipped with wireless networking that allows the acceptance of credit cards, debit cards, and prepaid cards for payment. These machines may also have the capability of being monitored remotely for performance and inventory by the owners and operators. Vending machines of this type are approved for use in New York State Correctional Facilities, provided that they are placed in areas where supervision by DOCCS Security Personnel is evident and not placed in areas of the facility where inmates are other than momentarily present.