



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

BRIAN FISCHER
COMMISSIONER

November 17, 2010

Ms. Carmen Maldonado
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

RE: Audit of DOCS - Oversight of Revenue Contracts (Report 2009-S-33)

Dear Ms. Maldonado:

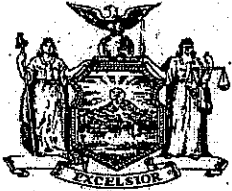
In accordance with Section 170 of the Executive Law and in response to the audit on Oversight of Revenue Contracts, Report 2009-S-33, the attached letter serves as the Department of Correctional Services' official ninety day response to this audit.

DOCS would like to acknowledge the time and effort of all employees that were involved with this audit and their desire to improve the Department's operation.

Sincerely

Brian Fischer
Commissioner

cc: Governor David Paterson
Lieutenant Governor Richard Ravitch
Senator Dean G. Skelos
Senator Carl Kruger
Senator Malcolm A. Smith
Senator John A. DeFrancisco
Senator Ruth Hassell-Thompson
Assemblyman Sheldon Silver
Assemblyman Herman D. Farrell
Assemblyman Brian M. Kolb
Assemblyman Jim Hayes
Division of the Budget (2)



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

BRIAN FISCHER
COMMISSIONER

GAYLE HAPONIK
DEPUTY COMMISSIONER
ADMINISTRATIVE SERVICES

November 17, 2010

Ms. Carmen Maldonado
Office of the State Comptroller
Division of State Government Accountability
110 State Street - 11th Floor
Albany, NY 12236

Re: DOCS - Oversight of Revenue Contracts (Report 2009-S-33)

Dear Ms. Maldonado:

The Department of Correctional Services (DOCS) has reviewed the Office of the State Comptroller's (OSC) final audit report regarding the Oversight of Revenue Contracts (2009-S-33) and has prepared written comments to your recommendations in accordance with Section 170 of the Executive Law. This letter serves as the Department of Correctional Services' official ninety day response to your report dated August 19, 2010. We have included our original comments from June 1, 2010 and have added additional comments in *italic bold print*.

Recommendation #1

Reconsider the opportunity to recover administrative costs associated with operating the Phone Home Program.

Original Response

DOCS agrees in part. The bid and resulting contract was drafted to emphasize that the lowest possible rates to be charged to customers. Under the RFP and resulting contract, administrative costs were to be borne by the Department. The contract has since been challenged and upheld by both OSC and the courts. Any attempt to revise the contract will result in additional costly litigation. In consideration of these factors, no change will be made at this time, however, DOCS will raise the issue of adding administrative costs to the per-minute cost of a call at the next available contract opportunity with the Executive Branch.

DOCS' position in this matter has not changed.

Recommendation #2

Monitor cellular telephone tower rental income to ensure that all revenues due to DOCS is received and recorded timely.

Original Response

DOCS agrees. The Department recognizes the shortcomings in the process used in receiving revenue from the Division of State Police and acknowledges the need to improve procedures. A tracking procedure has been put in place to prove the accuracy of any amount received against what the Department receipts should be and monitor the continuity and timeliness of such revenue.

The tracking procedure has been in effect and DOCS is working with the Division of the State Police.

Recommendation #3

Remind correctional facilities to ensure that revenues are accurate and are deposited in appropriate accounts.

Original Response

DOCS agrees. DOCS will issue a reminder to all facilities.

A memorandum was sent by the Chief Fiscal Officer to all of the facilities on November 15, 2010 reminding them of certain requirements when dealing with vending machine companies. Part of this memorandum reminded staff that the space rental fees should be deposited into the General Fund and that facility staff verify the vendors' meter readings.

Recommendation #4

Remind correctional facilities that there should be formal contracts with vending machine companies.

Original Response

DOCS agrees. DOCS will issue a reminder to all facilities.

The memorandum by the Chief Fiscal Officer included a reminder that there should be formal contracts with vending machine companies.

Recommendation #5

Evaluate whether DOCS facilities should be receiving higher commission rates on vending machine sales.

Original Response

DOCS agrees. Directive #2770, "Vending Machine Contracts," currently limits the commission rate a facility may establish since it is DOCS' policy that vending machine contracts offer the highest quality merchandise at the lowest possible sale price to staff and visitors while generating a reasonable commission. DOCS will evaluate whether facilities should be receiving higher commission rates.

Departmental Directive #2770 currently allows facilities to negotiate commissions up to 30% although the average commission is approximately 15%. Upon closer review of OSC's recommendation, DOCS has determined not to encourage facilities to increase their commissions since it contradicts our policy of offering the best product at the lowest cost possible and it will not achieve OSC's intention of increasing State revenues. Any commission revenues generated from the sale of items from vending machines at the facilities are dedicated to the facility Employee Benefit Fund and the Inmate Occupational Therapy Fund. These funds are required to be used for the benefit of all employees and inmates at that facility. How these funds are spent is determined by an employee and an inmate committee at the facility which is then approved by the Superintendent. Increasing the vending machine commissions will not result in any increase of State revenues. The space rental fee which a vendor is required to pay for each vending machine placed in a facility is placed into the General Fund. DOCS will consider increasing the space rental fee it charges all vending machine companies.

Recommendation #6

Expand the recycling program to as many correctional facilities as possible.

Original Response

DOCS agrees. The Department will work to expand our current recycling program to as many facilities and operations as possible. DOCS is also developing a Departmental Directive on the recycling program.

A draft Departmental Directive #3050, "Waste Reduction and Recycling Program," has been reviewed by the Central Office Executive Team and Supervising Superintendents for comments and is expected to be release in about a month or two. DOCS has expanded the recycling program and will continue to do so. The Department recycled 1,069.53 tons of material in September of 2010, this is about a 16% increase from what was recycled a year ago.

Recommendation #7

Require correctional facilities to have formal contracts with companies who purchase DOCS recycled materials.

Original Response

DOCS agrees. DOCS will formalize all agreements pertaining to the purchasing of recycled materials whenever possible.

DOCS will pursue the fair market value of the recyclable material by making available to the recycling facilities a copy of the monthly publication "Official Board Markets," also known as "The Yellow Sheet," which is the industry's leading source of information. When the Departmental Directive #3050, "Waste Reduction and Recycling Program," has been completed, recycling supervisors will be conducting training at the recycling facilities which will include the solicitation of vendor bids.

Recommendation #8

Develop procedures for facilities to follow for the billing and collection of revenue from recycling sales.

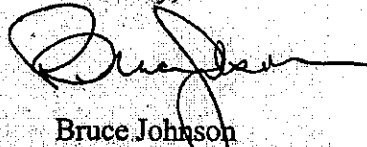
Original Response

DOCS agrees. DOCS will initiate procedures that improve on the billing and collection of revenues from recycling sales.

When the Departmental Directive #3050, "Waste Reduction and Recycling Program," has been completed, recycling supervisors will be conducting training at the recycling facilities which will include the billing and collection of revenues from recycling sales. Under this Directive, the administrative responsibility for managing the recycling program will be with Correctional Industries who will monitor the inventory and sales at the recycling facilities.

Thank you for the opportunity to comment on these audit findings.

Sincerely,



Bruce Johnson
Chief Fiscal Officer