

**Statement of Position
Vending Machines**

Vending machines present unique legal compliance challenges. In the past, some public officials have viewed the expenditures of vending machine proceeds as not being subject to “public purpose” requirements and as not needing statutory authority. This view may be based in part on the concept that funds generated by vending machines were from nontax revenues and therefore not subject to the same legal requirements. However, the Minnesota Attorney General has been clear that the public purpose requirements apply to all public expenditures, even if the money was received from non-tax sources.¹

Revenues received by the public entity from the proceeds of vending machine sales or from granting the license under the written contract are public funds and should be deposited in the general fund like any other operating revenue.

For the purpose of compliance auditing, the Office of the State Auditor divides vending machines into two groups: those entirely within an employee work space and those accessible to the public.

Vending Machines Accessible by Employees Only

Vending machines accessible only to public employees, such as in an employee lunch room, can be handled informally. For instance, the public entity could allow its employees to handle all aspects of the vending machine operations, including setting the price of items, stocking product, and collecting money. The public entity could allow its employees, through a formal or informal employee group, to enter into an agreement with a vending machine company where the employees receive cash. If the employees handle the pricing and stocking and receive profits from the vending machines, then the funds generated do not become public funds and are not subject to an audit. We consider this situation to be an analogous to one in which the employer provides a refrigerator for the use of employees.

Vending Machines Accessible by the Public

For vending machines located in the public areas of public buildings, formal contracting procedures are applicable if the public entity does not own the vending machine. If the public entity does not own the vending machine, there should be a written contract between the public entity and the owner/operator of the vending machine. Such a contract would grant the owner/operator the license to operate the

¹ See Op. Atty. Gen. 107-a-3 (Jan. 22, 1980) and Op. Atty. Gen. 159-a-16 (Nov. 16, 1949).

vending machine on public property. All the terms of a licensing agreement should be addressed in the written contract, including the time period, distribution of proceeds of vending machine sales, liability for injury caused by the vending machine, and who will carry insurance for personal injury or property damage.

Some public entities have entered into contracts with employee organizations that, in turn, operate the vending machines. The contractual payments made by the employee organization to the entity are public funds subject to an audit. The money collected from the vending machine by the employees under this type of contract, however, is not public money. This does not present an audit issue, as long as the terms of these contracts are reasonable.

Internal Controls

Regardless of their location, vending machines generally produce a constant flow of revenue. Individual revenue amounts received each week or month may be modest, but the amounts produced over a long period of time can be large. Therefore, internal controls appropriate to any cash-handling function should be in place.

For small operations, vending machine companies may divide the cash received by the machine at the time it is restocked. An employee of the public entity should be present for this process, and a written receipt of the money received by the public entity should be prepared and signed by the vending machine employee. As with all cash transactions, regularly rotating the person responsible for receiving cash can provide a level of internal control. A sudden change in the amount of revenue received from the vending machine is a red flag.

The potential for loss can be high, even in a small vending machine operation. It is therefore worthwhile, from time to time, to review the internal controls associated with the handling of cash from vending machines.