Review of the University's Exclusive Beverage Rights Contract

June 20, 2019

Office of Internal Audit and Risk Management

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Missouri State
UNIVERSITY

DATE: June 20, 2019

TO: Stephen Foucart, Chief Financial Officer
Kyle Moats, Director of Athletics

CC: Rachael Dockery, General Counsel and Chief Compliance Officer
Clifton M. Smart III, University President

FROM: Donna Christian, Director of Internal Audit and Risk Management
Jane Dewberry, Senior Internal Auditor

Review of the University's Exclusive Beverage Rights Contract

BACKGROUND

On July 1, 2014, the University entered into a contract with Ozarks Coca-Cola Bottling for pouring and vending rights on the Springfield campus, replacing PepsiCo whose second 10-year contract was expiring. Both vendors had placed very competitive bids for the new contract but declines in vending sales over the prior contract period resulted in a contract that was approximately $160,000 per year lower than the final contract year of the Pepsi contract. The lower bids had been anticipated due to a nationwide decline in sales of carbonated soft drinks. The Pepsi contract, awarded in 2004 before sales started declining, included guaranteed commissions in the final year of $350,000; which unfortunately exceeded estimated commissions by about $230,000.

The University was very pleased with the contract negotiated with Ozarks Coca-Cola but it still left an approximately $160,000 decline in funding that would have to be absorbed elsewhere in the University's budget. Coca-Cola felt that strategic vending machine placement and enhanced product selection would improve sales and thus reduce the potential shortfalls. While carbonated soft drink sales have been declining, sales of bottled water, flavored water, and energy drinks have been increasing due to consumer demand for "healthier" alternatives.

The estimated value of the contract with Ozarks Coca-Cola over the full 11 years (7 years guaranteed, plus a 4-year renewal option) is over $5.5 million. Under the terms of the contract, over the 11-year period the University would receive direct cash contributions of approximately **$4.2 million** (a key feature of the contract), vending machine commissions of an estimated **$1 million**, over **$160,000** in free product support, and various marketing support totaling about **$300,000**. Free product and marketing funds remain with Coca-Cola to be spent by mutual consent and have annual limits. Any unused product and marketing funds each year are forfeited.

The University has been pleased with both the pouring and vending services provided by Ozarks Coca-Cola as well as the revenue generated under the contract.

OBJECTIVE AND SCOPE

The objectives were to review the revenues and products received from Coca-Cola to determine whether they were in compliance with contract terms. The scope included the period beginning July 1, 2014 to March 31, 2019.

SUMMARY

This review identified approximately $65,000 owed to the University for underpaid commissions from July 2014 through March 2019. The amount due results from an underpayment of approximately $73,000 in vending commissions and an overpayment in growth incentive payments of approximately $8,000.

The report recommends that the University's Chief Financial Officer work with Ozarks Coca-Cola to collect the $65,000 owed to the University and to obtain better documentation from Ozarks Coca-Cola of sales and commission rates.

The report also recommends the University's Athletic Director work more closely with Ozarks Coca-Cola on receiving and tracking the various free products and marketing funds outlined in the contract.

Donna Christian

Donna K. Christian, CPA, CGFM,
Director of Internal Audit and Risk Management

Jane Dewberry

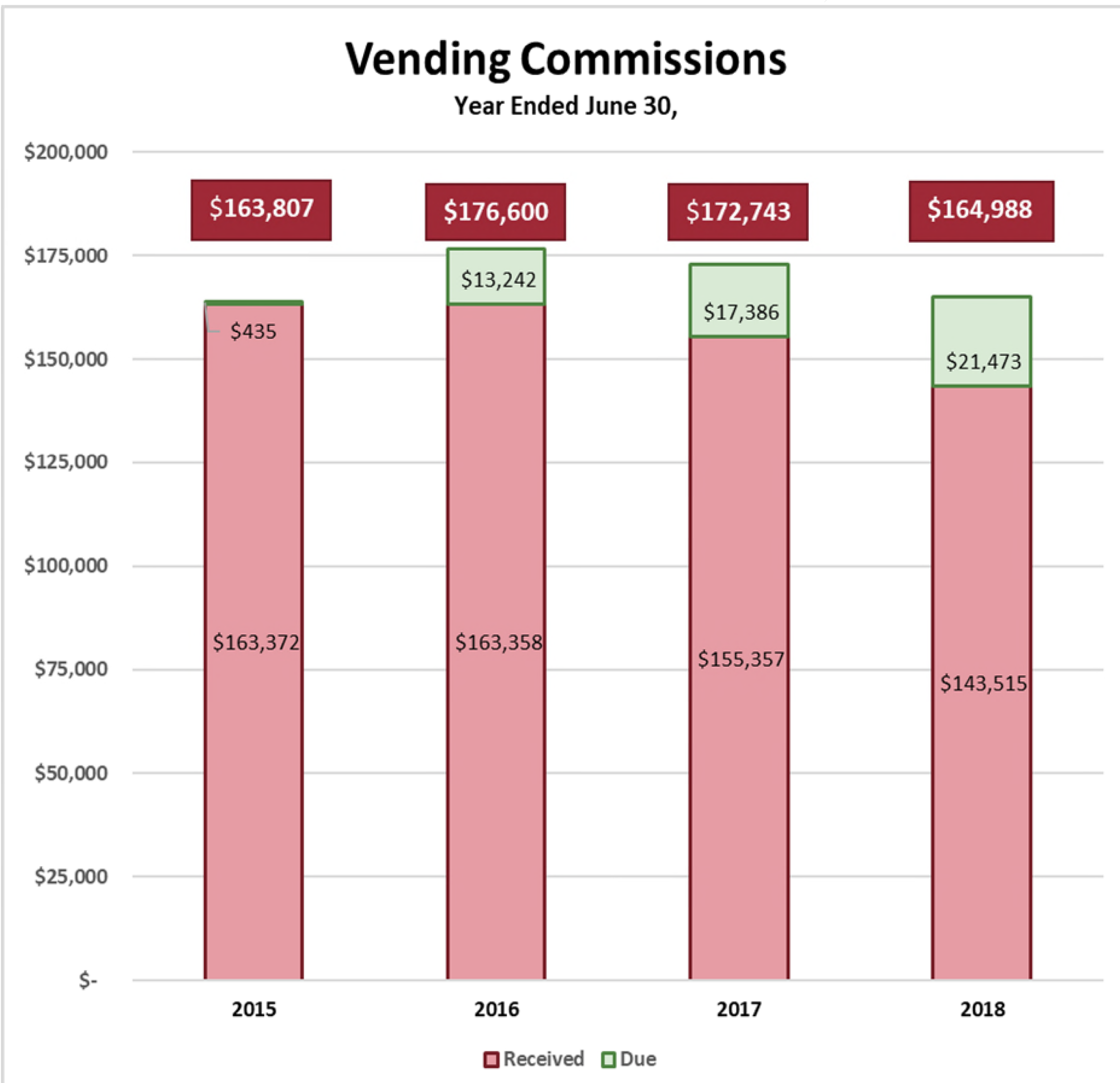
Jane Dewberry, Senior Internal Auditor
Audit Field Work Completed: May 28, 2019

OBSERVATIONS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Beverage Vending Machine Commissions

Ozarks Coca-Cola tracks product sales and calculates commissions for each vending machine on campus. Vending Machine Commissions are paid to the University monthly and have totaled approximately $700,000 for the four years ended June 30, 2018.

When Internal Audit requested detailed sales data to support the commission calculations, Ozarks Coca-Cola discovered that if a commission rate had not been manually entered into their beverage distribution software system then commissions were not calculated or paid to the University on those products. At this point, it became obvious that the University was not paid commissions on some products sold. Internal Audit compared the sales data to the commission data and determined the total amount of commissions earned by the University. The chart below shows the total amount of beverage vending machine commissions earned (both paid and unpaid) for the four years ended June 30, 2018.



- Ozarks Coca-Cola has been very helpful in determining the extent of errors made in calculating commission payments to the University. The chart below shows the total amount owed to the University for underpaid commissions from July 1, 2014 through March 31, 2019.

Product:	Commission Owed:	
Monster Energy Products	$	59,648
Dunkin' Donut Coffee		5,494
Cherried Out Energy Drink		3,510
12 oz. MinuteMaid Juices		3,511
11.5 oz. Illy Coffee		876
Various Products		368
Total Commissions Owed:	**$**	**73,407**

  These commissions were underpaid because a commission rate had not been manually input into the Ozarks Coca-Cola vending software system. The Monster Energy Products represent the largest portion of the commissions owed to the University because Ozark Coca-Cola began selling these products shortly after the inception of the contract and continues to sell Monster products on campus. The other products were sold for shorter periods of time causing the commissions owed to be significantly less than the commissions on Monster products.

- Documentation received monthly from Ozarks Coca-Cola does not provide adequate data for the University to ensure it receives a commission payment on all product sales. As a result, the underpayment of commissions noted above was not identified until this audit started. Internal Audit and Ozarks Coca-Cola are working together to ensure monthly reports are provided that would reflect accurate sales and commissions.

- The commission rates on some products are different than those rates defined in the contract. For example, a 20 percent commission rate is used for Dunkin' Donut Coffee products listed in the chart above; however, the lowest commission rate defined in the contract is 35 percent. Ozark Coca-Cola personnel indicated a lower commission rate is needed on some higher priced products where the profit margin is lower than normal.

Recommendations:

We recommend that the Chief Financial Officer continue to work with Ozarks Coca-Cola to collect the amount owed to the University, obtain and review sales documentation to ensure commissions are received on all sales, and amend contract to allow for the 20 percent commission rate on certain higher priced vending products sold.

Management Response

The Chief Financial Officer provided the following response:

An invoice was sent to Ozarks Coca-Cola on June 7, 2019. Upon completion of the new sales report from Ozarks Coca-Cola and verification from Internal Audit, Financial Services will review that commissions paid correspond to the new and verified sales report.

2. Growth Incentive Payments

Ozarks Coca-Cola overpaid the University $8,377 in growth incentives. The contract with Ozarks Coca-Cola also includes an incentive payment for each standard physical case of product purchased by the

University that exceeds the base level set in the contract. This includes all Bookstore purchases for resale, and product purchased for food service and concession sales on campus, but excludes vending. The University received a **$4,993** incentive payment in fiscal year 2015 and a **$3,384** payment in fiscal year 2016. No other incentive payments have been received.

Ozarks Coca-Cola discovered an error had been made in calculating the first two payments. They presented documentation to show that cases of product sold through the vending machines had erroneously been included in the calculation. Eliminating these cases from the calculation showed that the University had not actually been owed the **$8,377** paid in fiscal 2015 and fiscal year 2016, and also was not owed growth incentive payments for fiscal years 2017 and 2018.

Recommendations:

We recommend the Chief Financial Officer allow the **$8,377** payments made due to the calculation error as a credit against the vending commissions owed.

Management Response:

The Chief Financial Officer provided the following response:

Agreed and incorporated into the invoice sent to Ozarks Coca-Cola on June 7, 2019.

3. Marketing and Other Funds to be Spent by Mutual Consent

The University needs to develop procedures to provide oversight of the $41,055 in annual marketing funds from Ozarks Coca-Cola. The contract with Ozarks Coca-Cola provides $41,055 annually to be spent by mutual consent on marketing and other items. Funds remain with Ozarks Coca-Cola and are forfeited if not used within the contract year. In attempting to audit how these funds had been spent, we discovered that the University has not designated a representative to provide mutual consent or track how much has been spent each year in order to prevent funds from being forfeited.

It should be noted the Ozarks Coca-Cola has been very generous with granting requests from various organizations on campus. The chart below shows the contract requirement as well as the amount spent (donated) each year according to Ozarks Coca-Cola.

	Contract	FY15		FY16		FY17		FY18	
Funds Spent by Mutual Consent:	up to:	actual:	over/ (under):	actual:	over/ (under):	actual:	over/ (under):	actual:	over/ (under):
All Sports Auction	500	650	150	650	150	650	150	650	150
Free Product Campus-wide	4,000	7,864	3,864	8,223	4,223	10,072	6,072	12,111	8,111
Powerade for Athletics	10,000	23,556	3,556	13,892	3,892	9,681	(319)	11,075	1,075
Merchandising Fund	5,555	6,314	759	6,045	490	6,230	675	5,555	-
Activation Fund	21,000	18,924	(2,076)	18,706	(2,294)	24,243	3,243	10,895	(10,105)

In most years the amount required to be spent by contract was spent by Ozarks Coca-Cola except for the $21,000 in activation funds which is to be spent on marketing to promote beverage sales on campus. For fiscal year 2018 the chart above shows Ozarks Coca-Cola only paid $10,895 in activation funds to the University. However, Ozarks Coca-Cola paid another $10,000 to Missouri State Sports Properties, LLC (MSSP) for Bobbleheads. In addition, Ozarks Coca-Cola entered into a separate 3-year contract (2019-2021) with MSSP totaling $40,181 for athletic game day sponsorships. The Ozarks Coca-Cola management team believed MSSP was part of the University and these funds could count as part of the activation fund. MSSP is an affiliate of Learfield Acquisitions, LLC, which holds the exclusive marketing and sponsorship rights for Missouri State University athletics. MSSP's contract with the University prevents the use of already contracted funds. Ozarks Coca-Cola, MSSP, and the University need to resolve this misunderstanding over these funds.

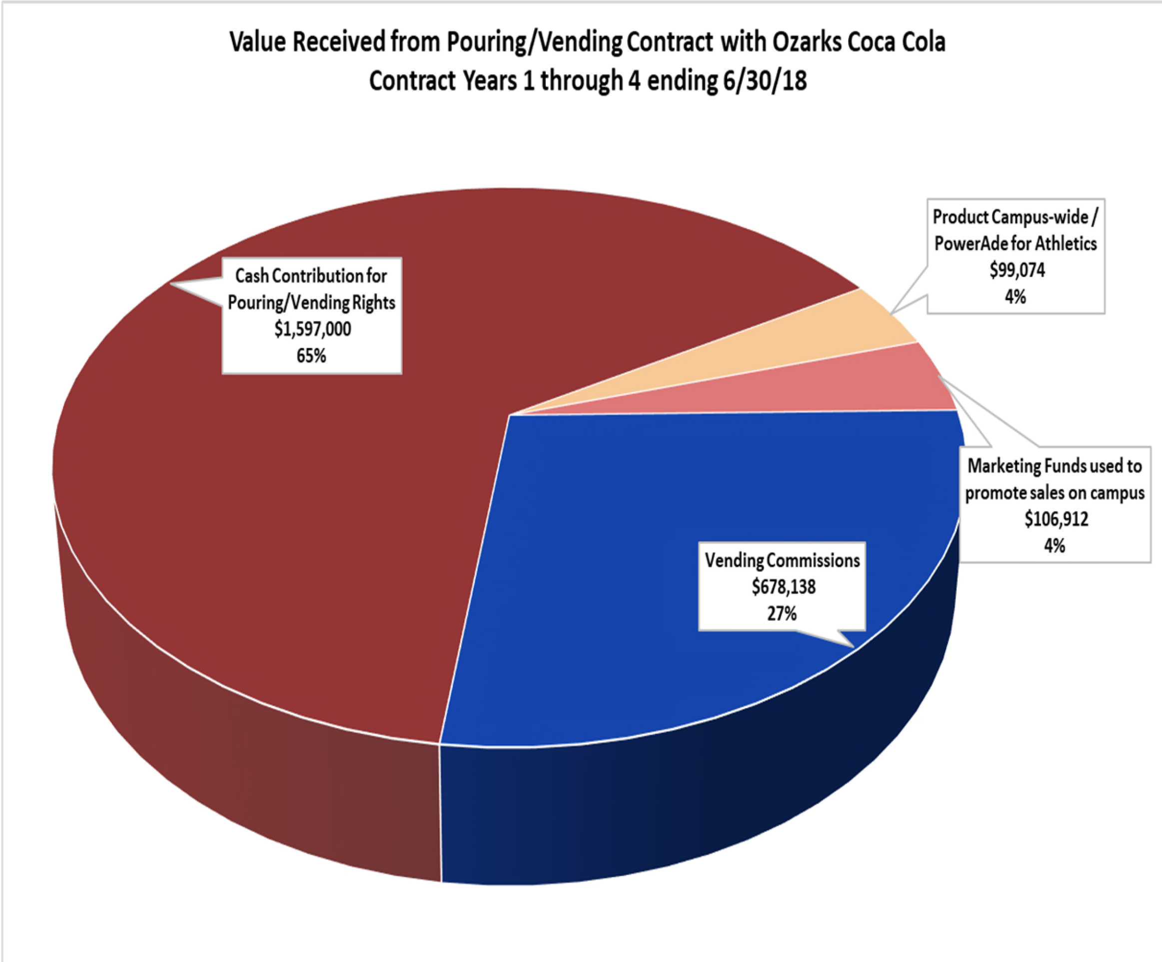
Recommendations:

We recommend the Athletic Director provide the mutual consent as specified in the contract to spend these funds and track the expenditures to ensure funds are not forfeited. Additionally, the Athletic Director should work with Ozarks Coca-Cola and MSSP to help resolve the issue over the activation funds.

Management Response:

The Athletic Director provided the following response:

Athletics will monitor the ordering of product. Specific contact will be Melissa Goodman, Assistant AD, Business Administration.


Value Received from Pouring/Vending Contract with Ozarks Coca Cola
Contract Years 1 through 4 ending 6/30/18
Cash Contribution for Pouring/Vending Rights
$1,597,000
65%
Product Campus-wide / PowerAde for Athletics
$99,074
4%
Marketing Funds used to promote sales on campus
$106,912
4%
Vending Commissions
$678,138
27%