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POLICY AND ADMINISTRATIVE PROCEDURES
Manual of Policies and Procedures

Title
THE ESTABLISHMENT AND OPERATION OF COMMISSARIES

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 4-24-6-6 IC 4-24-6-7 IC 11-8-2-5(a)(9)	00-02-101 02-01-101 04-01-104 04-01-105	ACA Standards ACI: 4-4042, 4-4043, 4-4273, 4-4379, 4-4166 JCF: 6B-11

I. PURPOSE:

This policy establishes the guidelines for the establishment, operation, and fiscal management of commissary services for offenders committed or ordered to the Department and housed in Department facilities.

II. POLICY STATEMENT:

The Department shall establish and maintain commissary services at each Department facility. Commissary services shall provide offenders the opportunity to purchase items for personal use. The Department shall provide these services, unless otherwise determined by the Commissioner. When determining the manner in which to provide commissary services, the Department shall consider:

- A. The ability to provide offender work assignments;
- B. The safety the public, staff, and offenders;
- C. The ability to provide competitive pricing;
- D. The ability to provide timely and efficient distribution of items; and,
- E. The ability to provide a diverse line of products.

Commissary operations shall be for the benefit of the offenders at the facility. Department staff shall not be permitted to make purchases from the commissary operation, unless the commissary operation is provided by vending machines open to the public.

The Department shall develop a standardized list of items that may be included for sale in the facilities' commissary operations. The development of commissary services at a facility shall be based upon the needs or preferences of the offender population and the degree of access the offenders have to the community. Each facility, with the approval of the Commissioner or

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designee, shall determine the amounts and types of items that may be sold in accordance with the standardized list of commissary items.

The types of items offered to offenders through commissary services shall be based upon the:

- A. Offenders’ need for the item;
- B. Type of items provided to offenders by the Department; and,
- C. Health, safety, and security issues at the facility.

All net profits or commissions from the operation of commissary services accrued by the facilities shall be deposited in the Inmate Recreation Fund and may be used in accordance with Policy 04-01-105, “Recreation Fund Administration.”

The Department shall establish a system of accounting and review that ensures compliance with all applicable statutes, promulgated rules, policies and administrative procedures. The management of commissary operations shall include an inventory system that ensures proper accounting of all items purchased for sale in the commissary.

III. DEFINITIONS:

For the purpose of this policy and administrative procedure, the following definitions are presented:

- A. **BUSINESS ADMINISTRATOR:** The staff person directly responsible for the supervision and management of all purchasing, bookkeeping, and accounting services of a facility or facilities.
- B. **COMMISSARY:** The services offered by a facility through which offenders are Permitted to obtain authorized necessity, convenience, or luxury items purchased with monies from the Inmate Trust Fund. The service shall be provided to the facilities by PEN.
- C. **COMMISSARY SUPERVISOR:** The staff person directly responsible for the daily operation and function of commissary services at a facility.
- D. **COMMISSARY LIST:** A document available to offenders which indicates the rules outlining the specific commissary procedures, the limits placed on commissary purchases, the items available through the commissary and the price of each commissary item.

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- E. GROSS RETAIL (SALES) TAX: The State tax based on the selling price of a taxable item.
- F. INMATE TRUST FUND: The fund, established by IC 4-24-6-2, which hold monies deposited for the use and benefit of an offender and in which all deposits, credits and disbursements are recorded.
- G. RECREATION FUND: The trust fund established by IC 4-24-6-6 which is to be used for the direct benefit of the offenders.

IV. COMMISSARY SUPERVISOR:

The Commissary Supervisor is responsible for the direct functioning of the commissary. This staff member supervises offenders assigned to the commissary, the distribution, record keeping, and security of the commissary. All offender complaints concerning misplaced orders or accounting mistakes shall be directed initially to the Commissary Supervisor.

V. ACQUISITION OF COMMISSARY ITEMS:

All commissary items shall be ordered through PEN, by each offender ordering his/her commissary on a pre-printed scan sheet provided by PEN. The Commissary Supervisor is responsible for these sheets to be accumulated and scanned on scanners provided by PEN on the date the facility is scheduled to submit commissary orders to PEN.

PEN shall ship the commissary items ordered to the facility based on a set schedule. Each offender order shall be packed in an individual bag and boxed. A label on the box shall identify the offender. Large items, or items shipped separately shall be provided to the facility in bulk with a listing of what the offender shall receive.

VI. PRICING:

PEN, with approval from the Commissioner or designee, shall establish prices on all commissary items sold to offenders. Pricing to offenders shall be uniform throughout the Department facilities. The exception to uniform pricing shall be to facilities where PEN provides additional services to the facility in the distribution for commissary orders.

VII. INDIANA GROSS RETAIL SALES TAX:

Based on Indiana Code 6-2.5-5-16(2) and 6-2.5-4-8, the Indiana Department of Revenue as determined that commissary purchases are exempt from the gross retail sales tax only where the commissary purchases are through PEN. Vendors who provide commissary operations through

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contractual agreements shall be responsible for the collection of all required taxes. The Department shall not be responsible for the collection or payment of any taxes for such vendors.

VIII. NOTIFICATION TO OFFENDER:

A commissary list shall be posted or made available to offenders in each housing unit and a location where commissary items are distributed to offenders. The Commissary Supervisor shall review the commissary list on a frequent basis. Any changes in price, quantity, deletions, or additions of items shall be reflected on a supplemental commissary list.

IX. ESTABLISHMENT OF COMMISSARY LIMITS:

The Superintendent, or designee shall determine the items offered through the facility from a master list of items offered by PEN. These items shall reflect the nature of the facility, security needs and economic factors. The list shall be reviewed by the appropriate Executive Director of Adult Facilities or Executive Director of Youth Services on an annual basis.

The Superintendent or designee shall establish a limit on the amount an offender may spend on food items, hygiene items, and property items, with consideration given based on the highest priced items in the three categories.

X. ADDITIONS OR DELETIONS FROM THE COMMISSARY LIST:

The master commissary list shall be reviewed on an annual basis by PEN and updated as necessary. The Superintendent shall review the list annually. Consideration shall be given to all recommendations for additions, deletions, or changes to the commissary list. Any proposed changes to the commissary list shall be submitted to PEN, and the Executive Director of Adult Facilities or the Executive Director of Youth Services as appropriate for approval.

XI. PURCHASING:

Each offender shall be permitted to receive commissary orders based on the schedule determined by the Superintendent or designee. The offender shall complete the commissary order forms as provided by PEN. The completed form(s) shall be scanned by the Commissary Supervisor through PEN-provided software on the day scheduled for the facility to submit orders. The scanning process shall determine whether the offender has sufficient funds in the Inmate Trust Fund to purchase the requested item(s). The scanning software shall confirm limits and facility availability for each item.

The approved commissary items shall be issued to the offender at a time and place determined by the Superintendent or designee. The offender shall be required to provide his/her State-issued

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identification card prior to receiving his/her commissary order. Following receipt by the offender, commissary items become personal property and are subject to the guidelines of Policy 02-01-101, "Offender Personal Property."

The completed and issued form shall be filed by the facility business office and maintained until destruction in accordance with Policy 00-04-102, "The Establishment, Distribution, Maintenance, Review, and Disposition of Administrative Records."

XII. CANCELLATION OF COMMISSARY ORDERS:

A commissary order may be cancelled for the following reasons:

- A. Inadequate funds in the offender's Inmate Trust Fund account;
- B. Information on the commissary order form is inadequate to properly identify the offender;
- C. The offender's status has changed and he/she may not receive commissary privileges; or,
- D. The facility is in a declared emergency situation.

XIII. LOSS OF COMMISSARY PRIVILEGES:

Offenders may have commissary privileges suspended or restricted through disciplinary actions as described in Policy 02-04-101, "The Disciplinary Code for Adult Offenders," or upon the order of a physician due to the offender's health requirements.

XIV. PURCHASE OF PERISHABLE ITEMS:

Perishable items needing refrigeration shall not be included on the commissary list. Non-perishable, non-refrigerated items may be placed on the commissary list as substitutes.

XV. SPECIAL COMMISSARY ORDERS:

The Superintendent or designee, in conjunction with PEN, may approve special commissary orders. Special commissary orders include items which may be available only during special occasions (e.g. holidays or special programs).

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XVI. RETURNED MERCHANDISE:

If missing or damaged product is discovered during distribution to the offender, or the offender is no longer located at the facility to receive his/her order, the information shall be entered into PEN's Return Merchandise Authorization (RMA). The RMA entry will cause the offender's Trust Fund Account to be credited and a record is forwarded to PEN to pick up damaged and undelivered orders.

The facility shall have the items for return available at the same location that commissary orders are delivered to the facility.

XVII. ACCOUNTING FOR COMMISSARY ACTIVITY:

In order to ensure accountability in the operation of commissary activities, the following procedures shall apply:

- A. The Superintendent shall ensure that a full and accurate account of the commissary funds for the facility is maintained by use of accounting forms prescribed and approved by the Indiana State Board of Accounts and this policy and administrative procedure.
- B. Accounting records and procedures shall be subject to review by the Office of the Chief Financial Officer (CFO).
- C. All entries showing receipts of funds shall be recorded in a manner as to be traceable to the offender's Inmate Trust Fund account to which the sale of commissary items was charged.
- D. All disbursements from the account shall be supported by invoices from PEN duly authorized by the facility's Business Administrator or designee.
- E. The cash balance of the commissary account shall be reconciled with the bank statement on a monthly basis.
- F. The Business Administrator shall prepare State Form 17085, **COMMISSARY FUND BALANCE SHEET**, on a monthly basis and shall include the following:
 - 1. Statement of Charges in Fund Balance;
 - 2. Bank Reconciliation Statement;
 - 3. Commissary Fund Detail of Receipts and Disbursements;

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4. Commissary Fund Operating Statement; and,
5. Application of Net Income.

Copies of these statements shall be submitted to the CFO or designee, along with a copy of the bank statement, monthly. The Indiana State Board of Accounts shall receive a copy of the fiscal year-end report.

XVIII. COMMISSARY COMMISSIONS:

All commissions received from PEN (difference given to the commissary fund between the amount charged to offenders and amount paid to PEN) on sale of commissary items shall be deposited in the Inmate Recreation Fund. The commission rate (percentage of selling price) charged shall be determined by the Commissioner, or designee, and PEN, by category. The commission rates shall be in writing and signed by the Commissioner, or designee, and the Director of PEN. Any changes to the commission rate shall be set in writing and signed by the Commissioner, or designee, and the Director of PEN prior to implementing the new rate.

The facility’s Business Office shall determine the amount of net commission from the commissary fund on a monthly basis. The monthly net commission as shown in the financial statement shall be transferred to the Recreation Fund account no later than sixty (60) days following the month of activity (e.g., the net commission for January shall be transferred no later than March 31).

The status of the Commissary Fund and money obtained from the sale of commissary items shall be reported monthly to the CFO and the Superintendent, or designee. The Business Administrator shall be responsible for the preparation of the report. State Form 17085, COMMISSARY FUND BALANCE SHEET, shall be used for the reporting of this information.

The Business Administrator shall submit a copy of the fiscal year-end (June 30) State Form 17085 to the CFO by July 15 of the subsequent fiscal year.

The sale of commissary items shall be charged to the individual Inmate Trust Fund Account on a weekly basis, or on the commissary ordering cycle set by the facility, for items purchased during the week. A check made payable to the commissary account for the total sales for a week shall be written against the Inmate Trust Fund and shall be deposited in the commissary account on the date the check is written.

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XIX. COMMISSARY SECURITY:

All commissary orders, supplies, and merchandise to be returned shall be stored in a safe, secure area. Adequate ventilation, fire protection, and safety standards shall be maintained. The commissary storage area shall be inspected for compliance with the standards of the American Correctional Association and the Indiana State Department of Health.

Offenders assigned to assist in operating the commissary may not perform any duties associated with processing another offender's charges, or processing another offender's order, when distributing commissary orders to offenders at a facility. This policy does not prohibit offenders from picking offender orders at the PEN commissary operation.

XX. COMPLAINTS:

Offender complaints regarding commissary orders shall be processed in accordance with Policy 00-02-301, "The Offender Grievance Process."

XXI. USE OF COMMISSARY BY STAFF:

Commissaries shall be operated solely for use by offenders. Purchases from the commissary by staff members, for any reason, are prohibited.

XXII. USE OF COMMISSARY ACCOUNT TO PURCHASE SUPPLIES AND EQUIPMENT OR TO PAY WAGES:

The Commissary Account may be used to purchase supplies, equipment, or service agreements for equipment, which are used directly in the operation of a commissary. If feasible, salaries and fringe benefits for commissary staff, as well as wages for offenders assigned to the commissary may be reimbursed to the General Fund from the Commissary Account.

XXIII. FACILITY DIRECTIVE:

Each facility shall develop a facility directive to establish commissary business hours for delivery of offender orders, offender purchase limits (including dollar limits for food, hygiene, and property items), limits on number of individual items purchased or limits for product grouping (e.g. limit on number of sodas purchased, regardless of brand or flavor.) Facility directives shall be developed in accordance with Policy 00-04-101, "The Development, Approval, and Implementation of Policy."

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XXIV. APPLICABILITY:

This policy and administrative procedure is applicable to all Department facilities housing offenders and students.

signature on file
Bruce Lemmon, Commissioner

Date