



# The Commonwealth of Massachusetts

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**INDEPENDENT STATE AUDITOR'S REPORT ON  
CERTAIN ACTIVITIES OF THE  
MIDDLESEX DIVISION OF THE  
SUPERIOR COURT DEPARTMENT OF THE  
MASSACHUSETTS TRIAL COURT  
JULY 1, 2008 TO MARCH 31, 2010**

**OFFICIAL AUDIT  
REPORT  
NOVEMBER 16, 2010**

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The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. Chapter 211B of the Massachusetts General Laws authorized the Superior Court Department to establish 14 Divisions, each having a specific territorial jurisdiction, to preside over matters that are brought before it. The Division's organizational structure consists of two main offices: the Clerk's Office, headed by a Clerk of the Courts, who is an elected official; and the Probation Office, which is headed by a Chief Probation Officer. The Clerk and Chief Probation Officer have responsibility for the internal administration of their respective offices.

The Middlesex Division of the Superior Court Department (MSC) presides over civil, criminal, and other matters falling within its territorial jurisdiction of Middlesex County. During the audit period July 1, 2008 to March 31, 2010, MSC collected revenues totaling \$4,003,582 which it disbursed to the Commonwealth as either general or specific state revenue. In addition to processing civil entry fees and monetary assessments on criminal cases, MSC was custodian of approximately 384 cash bails totaling \$2,010,928, 16 removal/medical malpractice bonds totaling \$8,000, and 75 civil escrow accounts held in trust totaling \$3,707,407 as of March 31, 2010.

MSC operations were funded by appropriations under the control of either the Division, the Administrative Office of the Trial Court (AOTC), or the Office of the Commissioner of Probation. According to the Commonwealth's records, expenditures associated with the operation of the Division were \$6,984,605 for the period July 1, 2008 to March 31, 2010.

The purpose of our audit was to review MSC's internal controls and compliance with state laws and regulations regarding administrative and operational activities, including cash management, bail funds, and revenue. Our review focused on the activities of the Clerk of the Courts and Probation Office for the period July 1, 2008 to March 31, 2010.

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Although the arrangement serves the needs of the public by providing copying services at a reasonable price (\$.25 per copy), the court and the Commonwealth may not have received maximum benefits from the arrangement. AOTC requires courts to seek competitive bids for these types of contracts to best serve the needs of the public, the court, and the Commonwealth.

## INTRODUCTION

### *Background*

The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. The statute also created a central administrative office managed by a Chief Administrative Justice (CAJ), who is responsible for the overall management of the Trial Court. The CAJ charged the central office, known as the Administrative Office of the Trial Court (AOTC), with developing a wide range of centralized functions and standards for the benefit of the entire Trial Court, including a budget for the Trial Court; central accounting and procurement systems; personnel policies, procedures, and standards for judges and staff; and the management of court facilities, security, libraries, and automation.

Chapter 211B of the Massachusetts General Laws authorized the Superior Court Department (SCD), which has original jurisdiction in civil actions valued at over \$25,000 or where equitable relief is sought. It also has original jurisdiction in actions involving labor disputes where injunctive relief is sought, and has exclusive authority to convene medical malpractice tribunals. Regarding criminal matters, the SCD has exclusive original jurisdiction in first-degree murder cases. It also has jurisdiction over all felony matters and other crimes, although it shares jurisdiction over crimes where other Trial Court Departments have concurrent jurisdiction. Finally, the SCD has appellate jurisdiction over certain administrative proceedings. The SCD established 14 Divisions, each having a specific territorial jurisdiction, to preside over civil and criminal matters brought before it. The Division's organizational structure consists of two main offices: the Clerk's Office, headed by a Clerk of the Courts who is an elected official; and the Probation Office, headed by a Chief Probation Officer. The Clerk of the Courts and the Chief Probation Officer have responsibility for the internal administration of their respective offices.

The Middlesex Division of the Superior Court Department (MSC) presides over civil and criminal matters falling within its territorial jurisdiction of Middlesex County. During the audit period, MSC collected revenues totaling \$4,003,582 which it disbursed to the Commonwealth as either general or specific state revenue. The following table shows the breakdown of the \$4,003,582 in revenues collected and transferred to the Commonwealth:

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Revenue Type	July 1, 2008 to June 30, 2009	July 1, 2009 to March 31, 2010	Totals
General Revenue	\$2,071,170	\$1,295,573	\$3,366,743
Probation and Administrative Supervision Fees	237,642	206,325	443,967
Victim/Witness Fund	26,085	21,850	47,935
Surcharge	66,805	51,750	118,555
Reimbursement for Indigent Counsel	12,825	9,950	22,775
Drug Analysis Fund	1,350	1,565	2,915
Miscellaneous	<u>155</u>	<u>537</u>	<u>692</u>
Totals	<u>\$2,416,032</u>	<u>\$1,587,550</u>	<u>\$4,003,582</u>

Approximately \$82,677 of these funds consisted of suspended fines and costs that were collected by the Probation Office and submitted to the Clerk of the Courts Office for transmittal to the Commonwealth. The Probation Office transmits Probation Administrative Supervision Fees directly to the Commonwealth. The Probation Office also disbursed approximately \$738,650 of restitution money that it paid directly to the parties owed the funds.

The MSC Clerk of the Courts Office was also the custodian of approximately 384 cash bails totaling \$2,010,928 and 16 removal/medical malpractice bonds totaling \$8,000 as of March 31, 2010. Bail is the security given to the court by defendants or their sureties to obtain release and to ensure appearance in court, at a future date, on criminal matters. Bail is subsequently returned, upon court order, if defendants adhere to the terms of their release. Removal and medical malpractice bonds are required by statute to satisfy any potential claims for costs incurred in the case.

In addition to the funds collected and transferred to the Commonwealth, MSC was in control of 75 civil escrow accounts valued at \$3,707,407 as of March 31, 2010. These accounts are considered assets held in trust by the court and kept in the custody of the Clerk of the Courts pending disposition by the court.

MSC operations are funded by appropriations under the control of either the Division (local) or the AOTC or the Commissioner of Probation Office (central). Under local control for fiscal years 2009 and 2010 were appropriations for personnel-related expenses of the Clerk of the Courts' support staff and certain administrative expenses (supplies, periodicals, law books, etc.). Other administrative and personnel expenses of the Division were paid by centrally controlled

appropriations. According to the Commonwealth's records, local and certain central expenditures associated with the operation of the Division for the 21-month period amounted to \$6,984,605.<sup>1</sup>

***Audit Scope, Objectives, and Methodology***

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor conducted an audit of the financial and management controls over certain operations of the MSC. The scope of our audit included a review of MSC's controls over administrative and operational activities, including cash management, bail funds, and revenue for the period July 1, 2008 to March 31, 2010.

Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits and, accordingly, included such audit procedures and tests as we considered necessary under the circumstances.

Our audit objectives were to (1) assess the adequacy of MSC's internal controls over cash management, bail funds, and revenues and (2) determine the extent of its controls for measuring, reporting, and monitoring effectiveness and efficiency regarding MSC's compliance with applicable state laws, rules, and regulations; other state guidelines; and AOTC and SCD policies and procedures.

Our review centered on the activities and operations of MSC's Clerk of the Courts Office and the Probation Office. We reviewed bail and cash management activity and transactions involving the collection and processing of revenue to determine whether policies and procedures were being adhered to.

To achieve our audit objectives, we conducted interviews with management and staff and reviewed prior audit reports, the Office of the State Comptroller's Massachusetts Management Accounting and Reporting System (MMARS) reports, AOTC statistical reports, and MSC's organizational structure. In addition, we obtained and reviewed copies of statutes, policies and procedures, accounting records, and other source documents. Our assessment of internal controls over financial and management activities at MSC was based on those interviews and documents.

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<sup>1</sup> This amount does not include certain centrally controlled expenditures, such as facility lease and related operational expenses, as well as personnel costs attributable to court officers, security officers and probation staff, and related administrative expenses of the probation office, since they are not identified by court division in the Commonwealth's accounting system.

Our recommendations are intended to assist MSC in developing, implementing, or improving its internal controls and overall financial and administrative operations to ensure that MSC's systems covering bail funds, cash management, and revenue collection and processing activities operate in an economical, efficient, and effective manner, and in compliance with applicable rules, regulations, and laws.

Based on our review, we have determined that, except for the issues noted in the Audit Results section of our report, MSC (1) maintained adequate internal controls over bail funds, cash management and revenue collection, and processing activities and (2) complied with applicable laws, rules, and regulations for the areas tested.

Subsequent to the completion of our audit fieldwork, MSC notified the AOTC on September 2, 2010 of a theft of funds by a probation officer. The probation officer in question was placed on paid administrative leave and the Middlesex District Attorney's Office is conducting an investigation.

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## AUDIT RESULTS

### 1. IMPROVEMENTS NEEDED IN MAINTENANCE OF THE CHECK STOCK INVENTORY CONTROL LOG

Although we found that Middlesex Superior Court's (MSC) Clerk-Magistrate's Office maintained its blank check stock in a secure location, it did not control the delivery and use of disbursement checks by maintaining a Check Stock Inventory Control Log. As a result, there are inadequate safeguards in place to: account for unused checks under the court's control; prevent the unauthorized use of checks, which could cause a potential loss of cash; and readily determine when checks should be reordered. Provisions of the Administrative Office of the Trial Court's (AOTC) Fiscal System Manual (FSM) require courts to utilize a Check Stock Inventory Control Log to adequately account for checks in its possession.

As part of our audit, we reviewed the procedures used by MSC to account for its disbursement checks that included an analysis of the Clerk-Magistrate's Office Check Stock Inventory Control Log. Our review disclosed that although MSC updated the check numbers sequences of the checks remaining, the receipts and releases of disbursement checks from its supply were not recorded.

The FSM established policies for the proper control of check stock inventory. According to Section 10.10 of the FSM:

*All checks must be accounted for in a Check Stock Inventory Control Log....*

*Every six months, a review of the check stock inventory must be conducted and the results of the review, together with the review's initials, must be noted in the Check Stock Inventory Log.*

The FSM also provides specific procedures to follow in order to accurately account for checks under its control. These procedures include confirming the accuracy of check shipments, recording delivery dates and check sequences, and reporting missing and damaged checks.

By not maintaining the Check Stock Inventory Control Log, there is little assurance that the Clerk-Magistrate's Office would be able to timely detect unauthorized use of its disbursement checks that potentially convert to cash, or that check reordering would occur in a controlled and established manner.



Staff of the Clerk-Magistrate's Office stated that when the court was running low on checks AOTC would request additional checks, but did not record the receipt and release of checks from the inventory in a log because it was not aware of the requirements in the Fiscal Systems Manual.

### ***Recommendation***

In order to properly safeguard its check stock inventory and prevent the unauthorized use of checks that could potentially be converted to cash, the MSC Clerk-Magistrate's Office should review and follow the policies established by Section 10.10 of the Fiscal Systems Manual by recording the court's receipt and release of checks from the check supply and reconcile that log at six-month intervals.

### ***Auditee's Response***

*We have reviewed Section 10.10 of the Fiscal Systems Manual and have implemented a new system for complying with the provision. The bookkeeper will compile and complete the Check Stock Inventory Control Log (FA 07) on a monthly basis. The Head Administrative Assistant and/or Office Manager will review the Log every six months, in conjunction with their oversight of the bookkeepers' procedures.*

## **2. NONCOMPLIANCE WITH AOTC'S FISCAL SYSTEMS MANUAL FOR MAKING REFUNDS**

Our review of the court's financial records revealed that the Clerk-Magistrate's Office issued refunds totaling \$1,257 (from its central bank account) for overpayments, duplicate payments, or payments received in error without processing a "Request for Refund" form. The bookkeeper stated that he issued refunds when given a handwritten note, a copy of the docket sheet, or any other means of communication from a clerk or other court personnel requesting a refund. Furthermore, the bookkeeper performed all of the steps in the refund process. As a result, the refunds were made without complying with the procedures and segregation of duties requirements outlined in the AOTC Fiscal Systems Manual, Section 8.5, as follows:

*Cashier (1) reviews refund request and documentation (receipt, canceled check) from the individual claiming an overpayment; (2) completes cashier and payee's sections of the Request for Refund form; (3) verifies requestor's signature and identity and forward's form and documentation to bookkeeper.*

*Bookkeeper review's (1) Request for Refund form and supporting documentation; (2) ensures original payment check has cleared; (3) obtains signature of court's authorized signatory; (4) completes and signs refund, prepares check for authorized signatory, and (5) mails or hand delivers check to individual requesting payment.*

If the Clerk-Magistrate's Office does not follow the procedures established by the AOTC, funds are at risk of being improperly disbursed by the court. The MSC stated that it was unaware of AOTC requirements pertaining to refunds.

### ***Recommendation***

The Clerk-Magistrate should review the procedures established by AOTC in its Fiscal Systems Manual Section 8.5. Once these procedures have been reviewed, they should be implemented in the court's process of making refunds for overpayments, duplicate payments, or payments received in error.

### ***Auditee's Response***

*With regard to refunds, we have implemented a two part system for processing refund requests. A refund request form will be compiled for each and every refund that is requested. A cashier or supervisor of the criminal or civil department will be responsible for assisting the person requesting the refund with the FA 03 form. The requestor shall sign the form. The cashier or supervisor will then attach any and all supporting documentation, such as a judge's order or docket sheet. The completed FA 03 form will then be forwarded to the bookkeeper for processing.*

## **3. IMPROVEMENTS NEEDED OVER REVENUE RECONCILIATION**

Our audit found that the MSC accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However, our audit determined that office personnel did not reconcile the revenues it remitted to the Commonwealth since July 1, 2004, when the Commonwealth changed its accounting system. With the implementation of an upgraded automated accounting system, the MSC was no longer able to reconcile its revenue transmittals with the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS). As a result, the MSC and the Commonwealth cannot be assured that revenues were properly received and credited to the appropriate general or specific state revenue account.

With the Commonwealth's change in accounting system, the former revenue reconciliation report (the 466C report) was no longer available as of July 1, 2004. Effective August 16, 2006, AOTC issued Fiscal Year 2007 Memo #6, which addressed new procedures for revenue transmittal, reporting, and reconciliation. The new procedure allowed courts to verify revenue transactions and addressed the revenue reconciliation requirements. To that end, the AOTC provided the courts with an alternative reconciliation procedure to reconcile its Revenue

Transmittal and Reporting Sheet (RTRS) amounts to the total amount posted on the Trial Court's intranet web page on a monthly basis.

When we performed the revenue reconciliation, we found that revenue credited to MSC's accounts per the MMARS system was \$254,483 more than the amount the court transmitted to the Commonwealth for the period July 1, 2008 to March 31, 2010. The variance was due to the fact that the AOTC posted MSC's April 2009 revenues to the MMARS system twice. Without performing timely reconciliations, the MSC and the Commonwealth cannot be assured that all revenues were properly received and credited to the appropriate general or specific state revenue account.

The bookkeeper for the Clerk-Magistrate's Office stated that he was unaware that revenue was to be reconciled with MMARS, and said he was not familiar with requirements contained in the Fiscal Year 2007 Memo #6. He also indicated that he was not familiar with the revenue reconciliation procedures.

During the audit, the audit staff gave the MSC Clerk-Magistrate's bookkeeper a copy of the AOTC Fiscal Year 2007 - Memo # 6 regarding the new revenue reconciliation procedures and he has been reconciling MSC's revenue to MMARS revenue since May 2010.

### ***Recommendation***

MSC should comply with the AOTC Fiscal Year 2007 Memo #6 requiring the completion of monthly revenue reconciliations to ensure that revenues are transmitted and credited to the correct court and proper accounts (general or specific) in the Commonwealth's MMARS system.

### ***Auditee's Response***

*Middlesex Superior Court has been compliant with AOTC Fiscal Year 2007 Memo #6 for the last six months by having the bookkeeper complete the reconciliation. The numbers compiled by the court will continue to be checked against the numbers available on the Trial Court website and the proper confirmation submitted.*

## **4. IMPROVEMENTS NEEDED IN PROCESSING OF UNCLAIMED, FORFEITED, AND DEFAULTED BAIL AND UNCLAIMED CIVIL ESCROW CASE DEPOSITS**

Our audit found that MSC needs to improve its internal controls to comply with state law and AOTC rules and regulations regarding the processing of bail. Specifically, our review found that MSC held 53 bail accounts totaling \$270,378 for cases decided more than three years ago and 20

escrow deposits totaling \$263,063 for cases closed in 2007 which should be remitted to the Office of the State Treasurer (OST) as abandoned property or general fund revenue or returned to private parties. As a result, the Commonwealth and other parties may have been denied timely access to and use of these funds. While our audit was in progress, MHC started to take corrective action on some of these accounts.

As of March 31, 2010, MSC's detailed trial balance reported 384 bails on hand totaling \$2,010,928 and 75 civil escrow deposits totaling \$3,707,407.

As part of our audit, we performed a detailed review of case files for all 384 bail accounts listed on the March 31, 2010 trial balance. We found that 53 bails totaling \$270,378 were held more than three years after the case was disposed of that should be disbursed as follows:

- Nine bails totaling \$188,000 were ordered forfeited, but the amounts had not been sent to the State Treasurer as general fund revenue.
- The court ordered the return of one bail totaling \$2,500 to the surety once the defendant was deported, but the bail is still being held by the court.
- 43 cases closed totaling \$79,878 had not been sent to the OST as abandoned property.

Our review of the case files also showed that bail notification letters informing owners that their funds were eligible for release were not routinely sent.

We reviewed the 75 case files associated with escrow accounts totaling \$3,707,407 and determined that 20 deposits totaling \$263,063 could be transferred to the State Treasurer as abandoned property.

Depending on the type of account, various provisions of the AOTC Fiscal System Manual as well as state law provide for how these items held in trust should be handled. With respect to bail funds, the AOTC Fiscal Systems Manual, Section 9.2, defines abandoned bail as follows:

*Abandoned Property—bail (or other held monies) unclaimed after three years, despite written attempts to contact the surety in accordance with Massachusetts General Law, Chapter 200A, Section 6.*

Moreover, under Section 9.6 of the Fiscal Systems Manual, AOTC established policies and procedures for the processing of abandoned bail. The section states, in part:

*If bail remains unclaimed one year after its release date, the Court division must attempt to contact the owner of the bail in writing by registered mail. If the appropriate individual cannot be found and the bail remains unclaimed for three (3) years after the release date, the bookkeeper transmits the bail to the Office of the State Treasurer as abandoned property in accordance with Massachusetts General Law (M.G.L.) Chapter 200A, Section 6.*

However, prior to remission to the Office of the State Treasurer (OST), courts are required to notify claimants of their outstanding bail. Section 9.6 of the Fiscal Systems Manual states:

*.... if more than one year has passed since bail was released, but bail has not yet been returned, notify the defendant or surety in writing by registered mail that the bail may be claimed upon presentation of the Recognizance bail receipt form...*

Under Chapter 276, Section 80, of the Massachusetts General Laws, the court is authorized to forfeit bail if defendants fail to appear in court in accordance with the terms of their release. Specifically, the law states, in part:

*At any time after default of the defendant, the court may order forfeited the money, bond or bank books deposited at the time of the recognizance and the court or clerk of the court with whom the deposit was made shall thereupon pay to the state treasurer any money so deposited.*

Since the MSC did not follow the requirements of AOTC's Fiscal Systems Manual or Massachusetts General Laws for the proper administration of unclaimed or forfeited bail, including notification to claimants that their funds became eligible for release, the court held assets that were rightfully due to others or the OST.

The AOTC Fiscal Systems Manual contains provisions for the treatment of bond funds that the court is holding which are similar to how bail funds would be treated as discussed above.

Since the MSC did not follow the requirements of AOTC's Fiscal Systems Manual for proper administration of unclaimed and forfeited bail, including notification in writing to the owners of unclaimed bail that their bails were eligible for release, the court improperly held property that was rightfully due to the OST.

We asked the First Assistant Clerk-Magistrate why the office has not been processing unclaimed and forfeited bail and why the trial balance has not been maintained in a current status. He explained that the backlog of bails has existed because the office is shorthanded, with only one bookkeeper and a back-up assistant who helps out only intermittently because she is a case

specialist and back-up court reporter. With the bookkeeper constantly busy with having to attend to the day-to-day activities, there remains little time to devote to the extensive bail inventory. After advising the First Assistant Clerk-Magistrate of the problems with bail funds, he advised us that he would endeavor to begin processing old bails and send forfeited and abandoned bails to the OST. Additionally, court personnel stated that they would proceed to send letters to owners reminding them of their unclaimed bail.

As a result of the audit staff's review, the court transmitted a number of bail accounts to the OST. As of July 31, 2010, MSC had transmitted \$185,500 of bail forfeitures for cases that had been in default between the period 2007 to 2009, and \$37,528 of abandoned bails for cases completed between 2002 and 2007.

Also, as a result of the review, the First Assistant Clerk-Magistrate mailed numerous reminder notifications to owners of bails and civil escrow deposits that their funds were available for return.

### ***Recommendation***

The Clerk-Magistrate should continue to pursue the processing of unclaimed and forfeited bail in accordance with the provisions of the Fiscal Systems Manual and the Massachusetts General Laws for abandoned and forfeited bails. Thereafter, the Clerk-Magistrate should conduct systemic reviews of the bail and civil escrow deposits on hand and maintain the trial balances.

### ***Auditee's Response***

*We will continue to pursue the processing of unclaimed and forfeited bail and escrow accounts, but we have implemented a plan to review these cases in compliance with the three year requirement. We intend to utilize the Clerk-Magistrate session to process bail forfeitures and bail abandonments on a monthly basis. With regard to civil escrow accounts, we will set up review status calendar events on all cases that have escrow accounts, so that disposition of these accounts is accomplished in a more timely manner and in accordance with AOTC regulations.*

## **5. IMPROVEMENTS NEEDED IN PROCUREMENT AND MANAGEMENT OF PHOTOCOPY VENDING MACHINE SERVICES**

Our audit found that both AOTC and MSC needed to improve procurement and management for the installation of photocopying machines on the court premises for the use by the public. A vendor installed three coin-operated photocopy machines (one machine was out for repairs at the end of our fieldwork) in the court's civil entry area. However, according to the Clerk of the

Court, the MSC has no knowledge of a contract or arrangement with the company. We contacted the Administrative Attorney at AOTC who is responsible for vendor installations at the courts who told us she was not aware of any written agreement with any company to provide coin-operated photocopy machines to MSC.

Although the arrangement serves the needs of the public by provided copying services at a reasonable price (\$.25 per copy), the court and the Commonwealth may not have received maximum benefits from this arrangement. AOTC requires courts to seek competitive bids for these types of contracts to best serve the needs of the public, the court, and the Commonwealth.

Our review found that the vendor did not make commission payments to either the court or the Commonwealth and did not provide benefits to the court in lieu of commissions such as free use of copy machines, paper, and supplies. According to the court, the vendor did not provide any reports identifying the number of copies made by the machines and there was no visible counting devise on the exterior of the machines. Therefore, we were unable to estimate the amount of revenue generated by the three machines. Our review of copy machine arrangements at other courts found that at \$.25 per copy, commissions could reach 40% depending on the number of copies made.

In January 1994, AOTC's Chief Justice for Administration and Management provided guidance through a memorandum to courts relating to the competitive procurement of vending machines as follows:

1. *Vending Machine/Public Equipment: Because coin or credit card operated vending machines, photocopiers, FAX units, and other such public convenience can offer significant revenues to the vendor, such vendors should only be selected after a valid bid or RFP [Requests for Proposals] process....*
2. *Following the bid or RFP process, a contract must be made between the vendor and the Court division.*
3. *Basic Provisions...: Request for Proposal (RFP's) should include provisions which best ensure that the public will be fairly served and the Commonwealth receives a benefit, and that you will be able to fairly compare the vendor's responses....*

*For all vending machines that are installed in State owned buildings, a file must be retained for audit purposes. This file should contain all agreements/contracts and validation documents when income is received.*

MSC personnel indicated that they were aware of the requirement to seek Request for Proposals for photocopying machines. However, the Clerk of the Court stated that the photocopy machines were in the court before he became the Clerk and that the vendor relocated the machines when the court moved from Cambridge to Woburn. The Clerk also stated that he thought that the vendor had made an agreement with AOTC.

We recognize that the public receives a significant benefit from the photocopier machines at what appears to be a reasonable cost. Nevertheless, sound business practice dictates that MSC should conduct a competitive bid or RFP procurement process including provisions which best ensure that the public will be fairly served and the Commonwealth receives the maximum benefit.

### ***Recommendation***

The AOTC Procurement Section of the Fiscal Affairs Department should review its procurement policies to determine that it properly addresses current issues with procurement vending contracts. The Procurement Section should then review this arrangement to determine whether it is best serving the needs of the public, the court, and the Commonwealth. If adjustments are necessary, it should provide guidance to the MSC with how to proceed with this arrangement. Additionally, we recommend that future vending machine contract procurement policies be amended to compare the benefits of receiving commission revenue versus other types of benefits that the court may receive, and encourage contracts that maximize benefits to the court and the Commonwealth.

### ***Auditee's Response***

*We have been working with AOTC to assist in their promulgating Trial Court-wide policies for copy machines. AOTC is surveying all courts in an effort to come with a uniform policy on copy machines. While the existing copy machines at Middlesex Superior Court provide a service to the public, we await guidance from AOTC as to ways to enhance revenue while having the service provided.*