

**THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER**

**COMPTROLLER'S INTERNAL CONTROL AND  
ACCOUNTABILITY DIRECTIVES**

**Directive 26 - REGISTRATION OF FRANCHISES, CONCESSIONS AND REVOCABLE  
CONSENTS**

**Introduction and Summary**

The purpose of this Directive is to provide agencies with guidelines for the registration of franchises, concessions and revocable consents. Agencies are not permitted to implement agreements with business entities, not for profit organizations or individuals unless the agreement is first registered with the Office of the Comptroller (the "Comptroller").

This Directive is issued in accordance with Sections 93(p) and 328 of the Charter of The City of New York, which require the Comptroller to register all contracts, Section 375 which requires the Comptroller to register franchises, revocable consents and concessions, and Section 334(b) which enables the Comptroller to request documentation relating to the solicitation or award of any City contract. In addition to the Charter provisions, Local Law 52 of 1987 requires the Comptroller to maintain a computerized data base and to publish a yearly summary report on every franchise and concession entered into by the City.

Highlights from the Directive follow:

Section  
Reference

Specific documentation described in this section must be submitted with all requests to register concessions, franchises and revocable consents. 4.1

The Comptroller may object to registering a concession, franchise or revocable consent if the Comptroller has sufficient reason to believe there is possible corruption in the letting of the agreement or that the proposed holder of the franchise, revocable consent or concession is involved in corrupt activity. 5.2

The Comptroller may refuse to register a concession, franchise or revocable consent if appropriate certifications have not been made or if the vendor has been suspended or debarred from doing business with the City. 5.3

**1.0 GENERAL INFORMATION**

1.1 Organization

- 1.0 General Information
- 2.0 Comptroller Authority
- 3.0 Registration
- 4.0 Required Documentation
- 5.0 Comptroller Action on Registration Requests

1.2 Effective Date

This Directive is effective immediately.

1.3 Definitions

Entity of the City of New York - Any department, office, commission, council, board,

bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive or legislative branches of the City of New York whose operations are paid for out of the City treasury or out of monies controlled, assessed or collected by the City of New York. An Entity also includes any board the majority of whose members are City officials or are individuals appointed directly or indirectly by City officials.

#### 1.4 Assistance

Questions or comments concerning this Directive should be addressed to: The Office of the Comptroller, attention:, Directives/Policy Unit, Bureau of Accountancy, Municipal Building, One Centre Street, Room 200 South, New York, NY 10007, (212) 669-3675, email [directives@comptroller.nyc.gov](mailto:directives@comptroller.nyc.gov) .

#### 1.5 Internet Availability

An inventory of existing Comptroller's Internal Control and Accountability Directives, with download and print capability, are available on the Comptroller's website at: <http://www.comptroller.nyc.gov>.

## 2.0 **COMPTROLLER AUTHORITY**

Section 328 of the City Charter states that no contract or agreement shall be implemented until:

- o a copy has been filed with the Comptroller; and
- o either the Comptroller has registered it or thirty days have elapsed from the date of filing, whichever is sooner, unless an objection has been filed, or the Comptroller has grounds for not registering the contract.

Section 375 of the Charter states that, ". . . all agreements memorializing the terms of franchises, revocable consents or concessions . . ." shall be registered with the Comptroller.

### **3.0 REGISTRATION**

#### **3.1 Purpose**

Registration is a key control for insuring that Entities of The City of New York are in compliance with the City's policies for entering into agreements with outside parties as expressed in the Charter of The City of New York.

Registration further provides the Comptroller the means to:

- o Maintain a comprehensive record of all City contracts and other agreements and prepare yearly summary reports;
- o Present objections if, in the Comptroller's judgment, there is sufficient reason to believe that the proposed holder of the concession, revocable consent or franchise is involved in corrupt activity or there was corruption in the letting of the agreement;
- o Accumulate, monitor and project revenues associated with City revenue agreements.

#### **3.2 Requests for Registration**

All requests for registration including all documentation required by this Directive must be

submitted to:

City of New York  
Office of the Comptroller  
Bureau of Contract Administration  
One Centre Street (Room 1005)  
New York, NY 10007  
(212) 669-2323

When agreements are submitted for registration, the full value of the agreement must be disclosed on the Advice of Award of Revenue Agreement.

#### **4.0 REQUIRED DOCUMENTATION**

To insure that all appropriate steps have been taken in the award of the agreement, specific documentation must be included with all registration requests. Compliance with these guidelines for required documentation will assist in the timely registration of agreements.

The date that the Comptroller receives the request for registration, complete with all required documentation is defined as the Date of Filing. The Comptroller will not consider the request for registration complete until all documentation is received. If the Comptroller finds that the documentation submitted is incomplete or inaccurate, it is essential that the entity provide the missing documentation or correct the error immediately. The Office of Contract Administration (OCA) will return registration requests to the originating agency or other entity if the information requested is not provided within 24 hours. No agreement will be registered until the Comptroller is satisfied that all required documentation, as described below, has been properly submitted.

The Comptroller has 30 calendar days to register the agreement from the Date of Filing. In general, within the 30 calendar days the Comptroller must either register, object to or refuse to register the agreement.

#### **4.1 On-Line Entry for Advices of Award**

Advices of Award of Revenue Agreement must be submitted electronically through on-line entries into the **Integrated Comprehensive Contract Information System (ICCIS)**.<sup>1</sup> Agencies requiring training on the **ICCIS system** should contact FISA at (212) 857-1700 and request "Training for On-Line Entry of Revenue Agreements."

Agencies which do not currently have the capability to submit Advices of Award electronically should contact:

City of New York  
Office of the Comptroller  
Attention: Bureau of Contract Administration  
Municipal Building  
One Centre Street (Room 10005)  
New York, NY 10007  
(212) 669-2323

#### **4.2 Documentation Requirements for Concessions, Franchises and Revocable Consents**

##### 4.2.1 Concession Agreements

The following documentation must be submitted with all requests to register concession agreements, as required by the Concession Rules of the Franchise and Concession Review Committee (Committee):

1. Notarized original executed agreement including all Exhibits and Appendixes.
2. A fully completed Advice of Award of Revenue Agreement (See Attachment A).
3. Copies of any related written statements, determinations and reports required by the rules of the Committee specific to the concession agreement.

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<sup>1</sup> Effective July 1, 1999, the Financial Management System replaced ICCIS.

4. Copies, including the date of approval and the agenda number, of any approvals made by the Committee.
5. Copies of any approvals of major concessions by the City Council and the City Planning Commission.
6. The VENDEX business entity, principal, not-for-profit organization and/or individual questionnaire(s). (Note: The VENDEX questionnaires will be required only until they are all routinely made available to the Comptroller prior to registration through the VENDEX Computer System. To avoid needless delay it is recommended that a copy of the most recent VENDEX questionnaire be presented along with the contract package.)
7. Original Corporation Counsel certification that the agency has legal authority to award the agreement [Charter §327(b)].
8. Original Corporation Counsel approval as to form of the Concession agreement [Charter §394(b)].
9. Documentation of notification to each affected Community Board and Borough President, if the agency has determined that the concession is not a major concession.
10. For agreements awarded through a competitive sealed bid process, the number of responses and the prices quoted for each bid opened. The bid tabulation sheet may

be submitted to meet this requirement.

11. For agreements awarded through a Request for Proposal process, the number of proposals received, the overall technical rating for each proposal and the proposed price for each proposal opened.

#### 4.2.2 Franchise Agreements

The following documentation must be submitted with all requests to register franchise agreements:

1. Notarized original executed agreement, including all Exhibits and Appendixes.
2. A fully completed Advice of Award of Revenue Agreement (See Attachment A).
3. Copies of any related written statements, determinations and reports required by the Charter specific to the franchise agreement being registered, including any disapproval by the Mayor and subsequent City Council override, if any (Charter §197-d(e), (f) and (g)).
4. Copies of any approvals necessary by the City Council and the City Planning Commission for franchises, including those required for land use related projects.
5. Copies, including the date of approval and the agenda number, of any approvals or other determinations made by the Committee.
6. The VENDEX business entity, principal, not-for-profit organization and/or individual questionnaire(s). (Note: The VENDEX questionnaires will be required only until they are all routinely made available to the Comptroller prior to

registration through the VENDEX Computer System. To avoid needless delay it is commended that a copy of the most recent VENDEX questionnaire be presented along with the contract package.)

7. Original Corporation Counsel certification that the agency has legal authority to award the agreement (Charter §327(b)).
8. Original Corporation Counsel approval as to form of the franchise agreement (Charter §394(b)).
9. If a land use related project, documentation of notification to each affected Community Board and Borough President.
10. For agreements awarded through a competitive sealed bid process, the number of responses and the prices quoted for each bid opened. The bid tabulation sheet may be submitted to meet this requirement.
11. For agreements awarded through a Request for Proposal process, the number of proposals received, the overall technical rating for each proposal and the proposed price for each proposal opened.
- 12a. Statement that agreement was presented, duly certified, to the Mayor for approval, including the date it was presented (Charter §372).
- 12b. Copies, including date of approval, of approval by the Mayor (Charter §372).

#### 4.2.3 Revocable Consents

The following documentation must be submitted with all requests to register revocable consents:

1. Notarized original executed agreement, including all Exhibits and Appendixes.
2. A fully completed Advice of Award of Revenue Agreement (See Attachment A).
3. Copies of any related written statements, determinations and reports required by the Charter specific to the revocable consent being registered, including any disapproval by the Mayor and subsequent City Council override, if any (Charter §197-d(e), (f) and (g)).
4. Copies of any approvals necessary of the City Council and the City Planning Commission for revocable consents, including those required for land use related projects, if any.
5. Copies, including the date of approval, of any approvals or other determinations made by the responsible agency and the Department of Transportation (Charter §364(c)).
6. Corporation Counsel certification that the agency has legal authority to award the agreement [Charter §327(b)].
7. Corporation Counsel approval as to form of the revocable consent [Charter §394(b)].
8. If a land use related project, documentation of notification to each affected Community Board, Borough President and Borough Board.

- 9a. Statement that agreement was presented, duly certified, to the Mayor for approval, including the date it was presented (Charter §372).
- 9b. Copies, including date of approval, of approval by the Mayor (Charter §372).

#### 4.2.4 Amendments, Changes and Modifications to Concessions, Franchises or Revocable Consents

The following documentation must be submitted with all requests to register an amendment, change or modification to any concession, franchise or revocable consent. This documentation is required for increases, decreases and changes that do not affect value:

1. New Advice of Award of Revenue Agreement, including when the changes do not affect the value of the concession, franchise or revocable consent.
2. Agreement pages which were changed, amended, or modified.
3. Justification for the change, amendment or modification.

#### 4.2.5 Renewal Options

The documentation required when an agency chooses to exercise an option to renew clause for an agreement originally registered in accordance with Sections 4.2.1 through 4.2.3 above, is:

1. New Advice of Award of Revenue Agreement for option period;
2. Justification letter for renewing the agreement as opposed to awarding a new agreement;

3. Revised terms and conditions for renewal period.
4. Copy of Original Agreement.

#### **4.3 Requests for Additional Documentation**

After registration the Comptroller may, on a case-by-case basis, request additional information. Section 334(b) of the Charter of the City of New York provides that, "Whenever an elected official of the City requests documentation relating to the solicitation or award of any City contract, the Mayor, other independently elected officials and City agencies shall promptly provide such documentation as is requested or promptly respond to the requesting official with reason why such documentation cannot be provided."

#### **5.0 COMPTROLLER ACTION ON REGISTRATION REQUESTS**

Upon receipt of the request to register the agreement, the Comptroller will review the documentation for completeness. If the documentation is not complete, the Comptroller will request that the agency submit the missing documentation. After reviewing the agreement and all the documentation required by this Directive, the Comptroller may:

- o register the agreement;
- o object to the registration of the agreement; or
- o refuse to register the agreement.

#### **5.1 Comptroller Registration of the Agreement**

Registration takes effect only by direct Comptroller action. If thirty days have passed since the Date of Filing and the Comptroller has neither objected to nor refused to register the agreement,

the agency may choose to implement the agreement.

The Comptroller's registration of an agreement does not constitute an approval of it or the process by which it was reached, and does not preclude subsequent audits or objection.

## 5.2 Comptroller Objection to the Registration of the Agreement

Within thirty days of the Date of Filing of the agreement, the Comptroller may object to its registration if in the Comptroller's judgment, there is sufficient reason to believe that:

- o there is possible corruption in the letting of the agreement; or
- o the proposed holder of the franchise, concession or revocable consent to the agreement is involved in corrupt activity.

Such objection will be made in writing to the Mayor, or other independently elected official, Commission or Board who presented the registration request. The Mayor or other independently elected official, Commission or Board must respond in writing to the Comptroller by describing the corrective actions, if any, that have been taken or will be taken in response to the Comptroller's objections or the reasons why they disagree with the Comptroller. The Comptroller will register the agreement within ten days of the receipt of such response.

## 5.3 Comptroller Refusal to Register the Agreement

The Comptroller may refuse to register the agreement if:

- o The party to the agreement has been suspended or debarred from doing business

with the City; or

- o The Comptroller has not received a copy of the agreement and related materials as described herein.

ADVICE OF AWARD OF REVENUE AGREEMENT

ATTACHMENT A

1. TAX ID 13-1666608 CN 2. CONTRACT ID 9328234

3. VENDOR NAME1 Tennfort Corporation 4. VENDOR NAME2 \_\_\_\_\_

5. VENDOR ADDR 1040 Fifth Avenue 6. CITY New York

7. STATE NY 8. ZIPCODE 10028

9. (AREA) PHONE ( 212 ) 348-2794

10. AWARD AGENCY 841

11. CONTRACT TYPE 17 12. AWARD METHOD 13

13. AWARD TYPE \_\_\_\_\_ 14. AWARD LEVEL 4

15. TERM FROM 06/09/1993 16. TERM TO 06/08/2003

17. ORIGINAL MAX. \$ 1,709.00 18. REVISED MAX. \_\_\_\_\_

19. ANNUAL MIN FEE \$ 1,709.00 20. % GROSS RECEIPTS? N

21. EXTENDED DATE \_\_\_\_\_ 22. RENEWAL CLAUSE? N

23. REFERENCE CODE N 24. REFERENCED CONTRACT NUMBER \_\_\_\_\_

25. PURPOSE OF AGREEMENT  
Consent to construct maintain and use planted areas.

26. WORKSITE ADDR/LOCATION  
East sidewalk of Fifth Avenue, North of East 85th Street

27. BORO COMMUNITY BOARD CODES:  
M 07

28. PROCUREMENT ID # \_\_\_\_\_ 29. SPECIAL PROCEDURE \_\_\_\_\_

30. NUMBER OF RESPONSES 001 31. REDUCED ADVERTISING \_\_\_\_\_

32. SPECIAL CATEGORIES M\_\_\_ W\_\_\_ NP\_\_\_

33. BATCH NUMBER 369774 34. BATCH DATE 06/18/1993

35. TRANSACTION CODE CTE 36. FUND CODE 150

37. DATE APPROVED 06/18/1993

CERTIFICATION OF AWARD OF REVENUE AGREEMENT

I have examined this Advice of Award of Revenue and certify that the award was made to the highest responsible bidder, and/or in accordance with the New York City Charter and the Rules of the Franchise and Concession Review Committee.

38. AGENCY NYC Dept. of Transportation 39. TELEPHONE # 212-669-4500

40. NAME OF PREPARER Michael DePompo 41. NAME & TITLE OF AUTHORIZED AGENCY OFFICIAL Stanley Shor Executive Director

42. SIGNATURE OF PREPARER Michael DePompo 43. AUTHORIZED AGENCY SIGNATURE Stanley Shor

COMPTROLLER'S VERIFICATION OF ICIS PROCESSING

DATE ACCEPTED BY ICIS \_\_\_\_\_ 45. OCA SIGNATURE \_\_\_\_\_