

SBVI/BEP CRIMINAL RECORDS CHECK

I. LEGAL AUTHORITY:

Section 103(b)(1) of the Rehabilitation Act as amended; the Randolph-Sheppard Act (Public Law 74-732 as amended by Public Law 83-565 and 93-516, 20 U.S.C., Chapter 6A Section 107); 34 CFR 395.1-395.38; 34 CFR 361; Title 42 Chapter 35 Section 14-15; Title 40 Chapter 9, Section 11.0 through 11.6 of the RI General Laws.

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; Rehabilitation Act of 1973, (P.L. 93-112) as amended by P.L. 93-516 and P.L. 95-602, Code of Federal Regulations, Title 34, Part 361.42(a)(4), (16); 29USC 722(a)(3)

II. POLICY STATEMENT AND PURPOSE:

It is the intent of ORS/SBVI as the State Licensing Agency (SLA) for the Business Enterprises Program (BEP) to provide employment opportunities to those who qualify for BEP services. In order to promote the integrity of the program and to insure the safety and the wellbeing of all of its participants, the vending facilities, and the general public, the following policy is being instituted.

III. PROCEDURES:

This SLA is required to initiate criminal records checks for all applicants for BEP for blind vendors, all vendor employees and all employees of agency-operated vending facilities.

- A. All applicants for BEP as blind vendors, vendor employees and employees of agency-operated vending facilities must comply with a criminal records check by completing a Bureau of Criminal Investigation (“BCI”) request form provided by SLA. The completed BCI form will be submitted to the Office of the Attorney General. Refusal or failure to cooperate with the criminal records check and to complete the BCI form shall be automatic grounds for denial of employment.
- B. All BCI reports shall be initially reviewed by the Assistant Administrator of VR at SBVI/BEP. All BCI reports that indicate criminal charges of any nature will be referred to the Deputy Administrator and to the DHS Legal Office for review and verification.
- C. BCI reports that show no criminal activity shall be indicated as such on the buck-sheet by the Assistant Administrator of VR at SBVI/BEP and Deputy Administrator and the application process shall continue. A copy of the BCI report shall be included in the applicant’s packet.

- D. Should the applicant's BCI report indicate that the applicant has convictions or charges pending, the BCI report will be submitted to the DHS Legal Office for review, verification and determination as to whether convictions and/or charges affect the applicant's eligibility for employment in the BEP program. The DHS Legal Office shall provide a written response within fourteen (14) days of receipt of request.
- 1) For purposes of this section, evidence of criminal activity is defined as a conviction or plea of nolo contendere of a felony in any criminal matter.
 - 2) For purposes of this section, criminal charges pending disposition must be periodically reviewed by the DHS Legal Office. SBVI shall provide the information to the DHS Legal Office of the BCI reports to be re-reviewed. Periodic review should be performed minimally every six (6) months.
 - 3) Disqualification of applicants will result if pending criminal charges include any felony that is listed in Paragraph 4 below. An applicant may re-apply for the program should they be found not guilty, have a favorable disposition of these charges, or have their record expunged.
 - 4) Disqualification will result should the applicant's BCI report indicate and be verified to include a conviction or plea of nolo contendere for the following felonies:
 - Murder
 - Voluntary Manslaughter
 - Involuntary Manslaughter
 - Kidnapping
 - Kidnapping with intent to extort
 - All Felony Assaults
 - Robbery
 - Larceny
 - Embezzlement and fraudulent conversion
 - Drug offenses – Any offense constituting a felony that is enumerated in R.I. General Laws §21-28-4.01 et seq., Uniform Controlled Substances Act.
 - Any other felony that could raise concerns for the safety of others.
 - 5) DHS Legal Office in consultation with the Deputy Administrator shall have the discretion to determine that an applicant be disqualified from the program based upon the BCI report. Such disqualification would serve the best interests of the BEP program, the facility, its employees and the general public. This shall be determined on a case-by-case basis. The applicant shall be allowed to submit any relevant documentation to support their application.

- 6) The SLA shall develop standardized letters of notification for the disqualification of applicants based upon the BCI process.
- E. Anyone violating this policy shall be subject to disciplinary proceedings up to and including termination from the Business Enterprise Program.
- F. BEP vendors and vendor employees shall submit to the BCI process when there is an indication of possible criminal conviction.