

BUSINESS ENTERPRISES PROGRAM

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.

II. POLICY STATEMENT AND PURPOSE:

As the designated state unit, the Office of Rehabilitation Services/Services for the Blind and Visually Impaired has the authority to act as the "State Licensing Agency" or "S.L.A." for the purpose of establishing vending facilities in order to carry out its full responsibilities under the Randolph-Sheppard Act to provide employment to qualified persons who are blind.

The agency has established its Business Enterprises Program to provide management and supervision including inspection, quality control, consultation, accounting, regulating, in-service training, construction, maintenance, inventory control, and related services to ensure that a high-quality, statewide vending facility program is maintained.

These regulations are designed to assure that priority is given to blind persons in the operation of vending facilities on State and Federal property, and wherever feasible, one or more vending facilities are established on State and Federal property.

The Business Enterprises Program works together with the agency's Vocational Rehabilitation Program in certifying applicants as qualified to operate a vending facility. The goal of operating vending facilities on State and Federal property by licensed persons is to provide individuals who are blind with remunerative employment and to increase their economic opportunities so they may experience economic self-support.

III. PROCEDURES: ISSUANCE OF LICENSE

A. Issuance of a license to a qualified applicant shall be conditioned upon the following requirements:

1. The applicant must be legally blind. "Legally blind" means visual acuity found to be 20/200 or less in the individual's better eye with best correction, or visual acuity of better than 20/200 if the widest diameter of the field of vision subtends an angle no greater than twenty degrees (20°). Blindness shall be determined by a physician skilled in the diseases of the eye and certification thereof shall be made by the ophthalmological consultant at the Services for the Blind and Visually Impaired.
2. The applicant must be a citizen of the United States.

3. The applicant must be certified by the Vocational Rehabilitation Program of the S.L.A. as qualified to operate a vending facility.
 4. An applicant must be in need of employment.
- B. Qualified applicants referred to the Business Enterprises Program by Vocational Rehabilitation must meet the following additional requirements:
1. Possess skills or have the potential capacity to travel independently.
 2. Possess sufficient capacity to learn and/or perform basic mathematic operations and other management/business skills.
 3. Give evidence of stable personality traits to enable proper interaction with the public.
 4. Be willing to exercise due care in daily personal cleanliness and grooming.
- C. Business Enterprises Program (BEP) Trainee Application Process:
1. The Vocational Rehabilitation Supervisor will submit a written application form completed by the assigned Vocational Rehabilitation Counselor which contains pertinent information about the client to the Chief Supervisor of the Business Enterprises Program Supervisor.
 2. The Chief BEP Supervisor and the Training Coordinator will review each application and schedule an informational interview.
 3. An interview and on-site pre-evaluation will be conducted.
 - a. The Training Coordinator or Chief BEP Supervisor will coordinate an informational interview with the client, the client's counselor, and, when appropriate, the Vocational Rehabilitation Supervisor.
 - b. The interview is held for the purpose of evaluating a client's degree of interest and motivation, as well as capacity and potential for success as a future vendor, and in accordance with the basic entry requirements of trainee applicants. All applicants must pass a standard mathematics test to be administered during the interview.
 - c. An on-site, five (5) day pre-evaluation will be scheduled with a pre-designated vending facility for each applicant. During this pre-evaluation, applicants will be evaluated to ensure that they meet the requirements listed in III., B., 1-4. This shall include an evaluation for

the need for adjustment training, mobility orientation/ instruction, rehabilitation teaching, and/or other support services.

- d. Based upon information obtained from the interview and on the on-site pre-evaluation, the Chief BEP Supervisor in consultation with the Training Coordinator will decide whether to accept or reject the client for BEP training.
 4. If the client is accepted into the BEP training program, the Training Coordinator will notify the counselor and client of the start date, and shall provide a written list of necessary training supplies, uniform requirements, and any other equipment or supplies to the counselor. The Vocational Rehabilitation Counselor will make a referral to the mobility unit immediately following notification of client acceptance and will assist the client in obtaining necessary training supplies prior to the work experience assignment. The Chief BEP Supervisor will sign the application and return it to the counselor.
 5. If the client is not accepted into the training program, the Chief BEP Supervisor will state the reasons in writing and submit them along with the client's application to the Vocational Rehabilitation Supervisor or counselor. The client may appeal this decision in accordance with the appeals process outlined in Section 115.12 of this Manual.
- D. Effective immediately, the applicant must have successfully completed the vending facility training program as described below, including a minimum of five (5) weeks of work experience and a six-month probationary period, in order to be issued a license by the S.L.A.

The S.L.A. shall provide for the training of blind individuals in accordance with the requirements of 34 CFR 395.11, and for the development thereunder, with the active participation of the Rhode Island State Committee of Blind Vendors (RISCOBV), of training and re-training programs. The basic component requirements of such programs include:

1. Personal and vocational adjustment training, including books, tools and other training materials and related expenses as provided under the Vocational Rehabilitation program of the S.L.A..
2. Work experience and practice in the trial and actual operation of a vending facility, including specialized training preparatory to the conduct and maintenance of financial data, purchasing and fiscal procedures and financial status reports.
3. The training program will be a minimum of sixteen (16) weeks as follows:

- a. Five (5) weeks of classroom training including testing and graduation; and
 - b. Five (5) weeks of work experience in a pre-designated vending facility or facilities; and
 - c. Six (6) weeks of food safety certification training; and
 - d. If the trainee is absent from training, make-up of days absent and completion of assignments will be required; and
 - e. If it is determined by the Chief BEP Supervisor and Training Coordinator that further training is required, the trainee and counselor will be notified. If additional training is required, the candidate will graduate with the following class; and
 - f. If a trainee is placed in less than a year, the trainee must participate in a one week orientation to the location and a review of all relevant aspects of the facility's operations; and
 - g. If the trainee is not placed in one year, the trainee may be required to participate in a review by the Chief BEP Supervisor and Training Coordinator. Failure to participate in mandated training will result in removal from the graduated candidate list.
 - h. Inactive graduates will be removed from the transfer seniority list after three (3) years.
4. Community-based training facilities and resources will be used to augment the vending facility training program. Examples include the Genesis Center, the National Restaurant Association, and the RI Hospitality Association. Trainees may be required to participate in management and other training from such local resources.
- Licensees and vendors are encouraged to participate in training from various local resources, such as CCRI, URI, Adult Education classes, seminars, S.L.A.-sponsored training, etc. Training may also include course work in management, marketing, sales, customer relations, and advertising.
5. Upward mobility, or continued training for the advancement, or re-training of vendors, including, as necessary, provision of post-employment services to assist vendors in their adjustment to their work assignment and assure the application of their maximum vocational potential as vending facility

managers, and re-training under a Corrective Action Plan. (See Section V. below)

- a. BEP supervisors are available to provide on-site evaluation and training to improve vendor skills and profitability of the vending facility. This on-the-job training may include public relations, facility layout and atmosphere, merchandising, purchasing, cooking, pricing, equipment maintenance, and bookkeeping.
- b. The S.L.A. will provide direct or indirect mandatory periodic training on matters the S.L.A. deems necessary or beneficial. This training is intended for the improvement of specific individuals and/or the BEP in general.

E. General Standards for selection of Licensed Vendor:

To be eligible for appointment as a Licensed Vendor, the following basic requirements must be met:

1. An applicant must have successfully completed the specialized training program for Blind Vendors as provided by the S.L.A. or a training program of equal scope and requirements.
2. An applicant must have acquired sufficient knowledge and skills necessary to the successful performance of all the tasks or processes which enable the proper operation of a vending facility.
3. Subsequent to the successful completion of a six (6) month probationary period at an assigned vending facility, the graduate will receive a vendor's license. Monthly evaluations will be conducted during said probationary period. During the probationary period the individual is considered to be a Probationary Graduate.

IV. PROCEDURES: SELECTION, TRANSFER, AND PROMOTION OF VENDORS

The S.L.A., with the active participation of the State Committee of Blind Vendors, hereby establishes a selection, transfer, and promotion system for vendors which will be uniformly applied to all vendor vacancies that develop or occur in the vending facilities program.

A. Definitions:

1. Blind Vendor - is a Probationary Graduate who has been licensed to operate a vending facility by the State Licensing Agency and is actually operating a vending facility, pursuant to a written agreement to operating a vending facility.

2. Normal Working Hours - Hours that the Blind Vendor or Probationary Graduate is required to be on site or performing tasks directly related to the business. This is an eight (8) hour work period between the approximate hours of 6:00 am to 6:00 pm, Monday through Friday, or the hours specified as normal working hours in a particular permit. Normal working hours consist of a minimum of forty (40) hours a week for a minimum of forty-eight (48) weeks a year.
3. Semi-annual Review - Formal management evaluation of vendor=s operation which assesses the individual=s skills and knowledge in management, marketing, menu/food pricing, and health and food safety.
4. Performance Standards - The results of the semi-annual reviews conducted at each licensed vendor's facility. A passing score, as determined by the S.L.A., is necessary to attain transfer seniority. Failure to achieve a passing score requires the initiation of a Corrective Action Plan.
5. Probationary Graduate - An individual who has successfully completed the sixteen (16) week training program but is not actually operating a licensed vending facility.
6. Active Probationary Graduate - An individual who has successfully completed the sixteen (16) week training program and is operating a vending facility during the six (6) month probationary period pursuant to a written agreement to operate a vending facility. Active Probationary Graduates accrue seniority and other rights and responsibilities of a Blind Vendor.
7. Promotion - is the advancement of an Active Probationary Graduate to the status of Blind Vendor.
8. Transfer - as used in these regulations, transfer shall mean the moving of a person who is or was a Blind Vendor to a vacant facility. Transfer shall not include the move of an existing vending facility to a new location if the population to be served at the new location is substantially the same. (E.g., if a store in which a vending stand is located moves to a new location, this would not be a transfer. If the store moves into a mall and the vending facility services the same store plus a substantially different population, then this would be a transfer.)
9. Vending Facility - includes facilities operated by the State Licensing Agency as well as facilities operated by a Blind Vendor. See Vending Facilities Standards below.

10. Coffee Plus - The S.L.A. and the RI State Committee of Blind Vendors (RISCOBV) have adopted this trade name which is to be used to describe and market vending facilities at all locations.
- B. General Standards for the Promotion of Probationary Graduates and Transfer of Blind Vendors and Active Probationary Graduates
1. In order to ensure the continuous and orderly coverage of all vending facilities, the following requirements shall be basic to the eligibility for transfer and promotion:
 - a. The Blind Vendor or Active Probationary Graduate must have demonstrated his or her ability to successfully operate and manage a vending facility.
 - b. The Blind Vendor or Active Probationary Graduate must have adhered to these rules and regulations and operating rules of the Vending Facilities Program during the immediate past assignment(s).
 - c. The Blind Vendor or Active Probationary Graduate must have adhered to a payment schedule for at least sixty (60) days to repay any debts incurred during previous assignment(s) if applicable.
 - d. The Blind Vendor, Active Probationary Graduate and Probationary Graduate must consider, and be prepared to assume certain obligations which may occur, such as: relocation of residence, transportation to and from a facility and assumption of duties and responsibilities which may or may not vary from the previous assignment(s).
 - e. The Blind Vendor, Active Probationary Graduate and Probationary Graduate must be prepared to accept specialized or advanced training prior to or after transfer or promotion.
- C. Transfer of Blind Vendors and Active Probationary Graduates
1. In accordance with the standards outlined in B. above, the transfer of Blind Vendors to a Vending facility shall be made on the basis of transfer seniority and a passing grade on the last semi-annual review. Transfer seniority is defined as the length of time that a Blind Vendor has actually operated a vending facility located in Rhode Island pursuant to a written Agreement for Operation of a Vending Facility.
 - a. Transfer Seniority shall not accrue to an employee (i.e., an individual for whom a W-2 is prepared) of a Vending Facility or the State

Licensing Agency unless said employee is a Blind Vendor operating a S.L.A. Facility pursuant to a written agreement.

- b. Transfer Seniority shall not accrue for time that an individual was a Probationary Graduate.
2. The State Licensing Agency and the State Committee of Blind Vendors shall review all Profit and Loss Statements and establish a permanent Transfer Seniority List.

Transfers will also be based on performance standards related to the vendor's and/or Active Probationary Graduate's education and experience in operating a successful business. Factors that will be considered include but are not limited to:

- a. A passing score on the last semi-annual review;
 - b. Creative marketing;
 - c. Appropriate use of employees;
 - d. Inventory management;
 - e. Quality of customer service;
 - f. Willingness to learn;
 - g. Ability to handle increased responsibility; and
 - h. Payment of all set aside and other known payables due by the closing date of the bid.
3. Whenever there shall be a vacancy due to a transfer, or an opening due to the establishment of a new vending facility, the State Licensing Agency shall provide written notice to each and every blind vendor, except those individuals who have previously withdrawn from the program and those currently participating in a Corrective Action Plan (CAP) as outlined below in V., A. or those individuals who have been terminated. Said notice shall be given as soon as possible, but not to exceed thirty (30) business days of the date of said vacancy unless otherwise determined by the S.L.A.
 4. Upon request, the S.L.A. shall provide to the blind vendors the last two (2) redacted Profit and Loss Statements to assist the vendor in her/his decision to transfer.
 5. The S.L.A. shall maintain a Transfer Seniority List including the dates of active service of each Blind Vendor and Active Probationary Graduate. Separate accompanying Profit and Loss Statements will also be held by the S.L.A.
 6. Upon selection for transfer, the blind vendor shall have a maximum of ten (10) business days to sign a written agreement to operate the vending facility

on which the Blind Vendor or Probationary Graduate has bid. During this trial period the Blind Vendor shall be paid the minimum wage. In the event the Blind Vendor or Probationary Graduate decides not to accept the transfer within the ten (10) business days, the Blind Vendor shall return to her/his previous facility with no loss of transfer seniority.

7. If no Blind Vendor or Probationary Graduate bids or accepts the transfer, the facility shall be offered to the most senior Probationary Graduate, as outlined in Promotion of Probationary Graduate below.
8. In the event that no blind vendor, Active Probationary Graduate accepts the transfer, the S.L.A. then has the right to take over the operation of the vending facility.

D. Promotion of Probationary Graduates to Active Probationary Graduate and to Blind Vendor

1. The S.L.A. shall notify all Probationary Graduates of vacancies and the opportunity for promotion in accordance with C. above.
2. Promotion will be based on Promotional Seniority and other factors. Promotional Seniority is defined as the length of time that an Probationary Graduate who has successfully completed the sixteen (16) week S.L.A. training program and is ready to operate a vending facility and who has never operated a vending facility in the State of Rhode Island.
3. Notice of a vacancy shall be given in accordance with C., 3., above. The S.L.A. shall maintain a Promotional Seniority List containing the name and graduation date on which an individual received his/her Probationary Graduate status.
 - a. In the event that more than one individual receives Probationary Graduate status on the same day, the name of each individual will be drawn on her or his behalf from a box or other such container by a person other than the one who recorded and/or placed the names in the box. Each successive name drawn will then be ranked on the Promotional List in the order in which it is drawn and recorded on the Probationary Graduate list as the rank in seniority.

V. PROCEDURES: CORRECTIVE ACTION PLAN (CAP) AND SUSPENSION

If it is determined by the S.L.A. that re-training or other intervention is necessary due to a vendor's performance problem, a Corrective Action Plan (CAP) may be completed.

- A. Corrective Action Plan means a written plan developed with the cooperation of the vendor identifying the problems leading to the determination that retraining or other intervention, is necessary and contains the necessary actions/activities to address and resolve the identified issues/deficits. A CAP is established for a reasonable time period and must contain a start and completion date.

Suspension means a temporary discontinuation (usually thirty (30) calendar days) of the Operating Agreement resulting in the vendor's relinquishing control of the vending facility and leaving and/or remaining away/absent from the facility (or off-site) for the period of suspension. The Operating Agreement will be reinstated when the reason for the suspension has been remedied. If the reason(s) for suspension cannot be remedied, the operating agreement will be revoked, after a full evidentiary hearing.

- B. Performance problems resulting in the determination that re-training or other intervention is necessary and development of a Corrective Action Plan include, but are not limited to:
1. Incidence of unprofessional behavior, e.g., use of profanity or loud, abusive language or behavior, poor customer service, inappropriate dress; and/or
 2. Cleanliness problems, inappropriate hygiene, failure to adhere to safe food handling requirements; and/or
 3. Book-keeping issues, such as failure to file weekly reports to the S.L.A. in a timely manner, non-payment of set-aside, failure to obtain current worker's compensation insurance for employees, failure to make required tax deposits and payments, failure to file required local, state or federal tax forms; and/or
 4. General management issues including inappropriate use of labor, low inventory levels, failure to use cash register, improper recording of receipts, inappropriate use of the telephone, cable, or lottery equipment, and other problems related to operating the facility in a business-like manner; and/or
 5. Failure to adhere to normal working hours; and/or
 6. Failure to comply with local, state, and federal laws; and/or
 7. Personal issues, e.g., substance abuse, excessive tardiness, and excessive absences as determined by the S.L.A.; and/or
 8. Failure to pass the Semi-Annual Review.
- C. Determination of Need for Intervention and/or Corrective Action Plan

1. The S.L.A. may become aware of performance problems through the results of the semi-annual reviews, regular supervisory visits, building managers, Department of Health personnel or similar agency reports, or any other valid source of information. Verbal reports will be accepted but written reports of misconduct are preferred and will be requested of the complainant(s).
 2. Upon S.L.A.'s notification of a performance problem, the Chief BEP Supervisor will meet with the reporting party (ies)(if applicable and/or possible) and the vendor to determine the validity of the complaint and, if valid, determine if a Corrective Action Plan should be developed and implemented to correct the problem(s).
 3. Within two (2) weeks of a determination that a CAP is needed, the S.L.A. will inform the vendor in writing stating the reason(s) for a CAP and schedule a meeting with Chief BEP Supervisor to initiate a formal CAP document.
- D. A Corrective Action Plan is developed with the cooperation of the vendor and identifies the problems leading to the determination that re-training or other intervention is necessary, and contains the actions/activities required to address and resolve the identified issues/deficits. A Corrective Action Plan is established for a reasonable time period and must contain a start and completion date.
1. After the Corrective Action Plan is developed, the CAP is signed by both the vendor and the Chief BEP Supervisor. Copies are provided to both parties.
 2. The vendor must show a good faith effort in cooperating and participating in the activities outlined in the CAP until the end date stated in the CAP.
- E. Non-cooperation with Corrective Action Plan (CAP)

Any vendor who does not participate in the development and implementation of a Corrective Action Plan (CAP) will cause her/his Operating Agreement to be suspended for thirty (30) days. Moreover, if the S.L.A. determines that the vendor is not making a good faith effort to participate in the CAP, or upon conclusion of the CAP end date, if no real remedy to the original problem(s) is exhibited, the vendor will be subject to suspension as described below.

1. Such suspension shall result in the vendor's relinquishing control of the vending facility and leaving and/or remaining away/absent from the facility for the period of suspension.
 - a. The vendor will not be allowed to bid on any other facility (see IV., C., 3. above) until the problems/deficits are resolved through a CAP.

- b. The vendor's license to operate a vending facility may be (either suspended or) terminated.
2. Any recurrence of the problem(s) identified in a CAP within a one (1) year period shall be cause for immediate suspension from the program for thirty(30) days. Any further infraction may result in termination.

F. Suspension Process

Suspension means a temporary discontinuation (usually thirty (30) calendar days) of the Operating Agreement resulting in the vendor's relinquishing control of the vending facility and leaving and/or remaining away/absent from the facility for the period of suspension. The Operating Agreement will be restored when the reason for the suspension has been remedied. If the reason(s) for suspension cannot be remedied, the operating agreement will be revoked, after a full evidentiary hearing.

1. Immediate suspension

Grounds for immediate suspension of a license shall exist when any activity, policy or conduct of a Blind Vendor presents a serious or imminent hazard to the health, safety, civil rights, and well being of the public.

2. Suspension for cause:

A vendor is subject to suspension for the following reasons, including, but not limited to:

- a. The Blind Vendor is in violation of the regulations and/or laws of a governmental agency; or
- b. The Blind Vendor demonstrates total unfitness or inability to operate a business enterprise in compliance with any of the requirements of these regulations and any applicable Federal and State law, including:
 - 1) Willfully defrauding a private vendor or any agency of government of any taxes or other money due;
 - 2) Jeopardizing the S.L.A.'s permit for the facility as a result of building management complaint and request for removal; or
- c. Abandonment of the business enterprise; or
- d. Indictment for or conviction of, a crime.

3. The Blind Vendor shall be notified of the reason(s) for any suspension in writing on the effective day of the suspension, if not earlier. The suspension becomes effective on the date and at the time specified in said notice. The notice must offer the operator an opportunity to show compliance with all lawful requirements for retaining her or his license. In addition, the vendor has appeal rights as outlined in Section 115.12 of this Manual. The vendor is entitled to all grievance procedures afforded by state and federal law, including an Administrative Hearing.
- G. Any license issued to an individual vendor for the operation of a vending facility on Federal or other property shall be suspended for the following reason:
1. Extended illness with a medically documented diagnosis resulting in prolonged incapacity of the vendor to operate a vending facility in a manner consistent with the needs of the location.
 - a. If the illness causes the vendor to be continuously absent from her/his assigned vending facility for a period in excess of three (3) consecutive calendar months for medical reasons, the S.L.A. may suspend her/his agreement for up to twelve (12) months. During this time the S.L.A. may take over operation of the vending facility.
 - b. If the vendor is absent from her/his assigned vending facility for medical reasons in excess of the twelve (12) calendar months, the suspension shall cease and the S.L.A. will terminate the agreement. The Blind Vendor will then be placed on an inactive vendor list according to seniority. The Blind Vendor's or Probationary Graduate's seniority will be frozen until the individual is able to return to the program.

VI. PROCEDURES: TERMINATION OF LICENSES

- A. Any license given to an individual Blind Vendor for the operation of a vending facility on Federal or other property shall be terminated for any of the following reasons:
1. No longer eligible under the criteria in III., A. and III., E., for example, improvement of vision so that the vendor no longer meets the definition of blindness.
 2. Withdrawal of the vendor from the program with or without his or her written notification to the S.L.A.

If the Blind Vendor is absent from/vacates the vending facility for thirty (30) days or more, such absence shall be deemed to be a withdrawal from the

program. The S.L.A. will inform the vendor of the termination in writing. Seniority will be retained if the vendor alerts the S.L.A. in writing at least two (2) weeks prior to leaving the facility for good cause (i.e., trial of new position, relocation, etc.). All seniority will be lost if the Blind Vendor does not provide a two (2) week notice to the S.L.A.

3. Blind Vendors who do not agree to participate in the development and successful implementation of their Corrective Action Plan (CAP) as described in V. above.

- B. All licenses shall be issued for an indefinite period of time but are subject to termination (or suspension for a thirty (30) day time period or) if, after affording the Blind Vendor an opportunity for a full evidentiary hearing, the S.L.A. finds that the vending facility to which that Blind Vendor is assigned is not being operated in accordance with the rules and regulations set forth herein, the terms and conditions of the permit, or the terms and conditions of the written agreement between the S.L.A. and the Blind Vendor.

VII. LEAVE OF ABSENCE

A. Short-Term

1. When a Blind Vendor or Active Probationary Graduate in good standing wishes a short-term leave of absence not to exceed twenty (20) business days a year for any reason other than medical, the Blind Vendor or Active Probationary Graduate must request such leave at least two (2) weeks prior to the beginning of the time period. The Blind Vendor or Active Probationary Graduate must provide the S.L.A. the name, address, and telephone number of the replacement vendor. The vendor is responsible for finding and paying the replacement employee.

B. Long-Term

1. Blind Vendors and Active Probationary Graduates working under an agreement must be on site during normal working hours as defined in IV., A., above. No long-term absences are allowed except as stated in V., G., 1., a., above. Vacating the Vending facility beyond the twenty (20) working days' limit above is cause for suspension or termination of license.

VIII. VENDING FACILITIES STANDARDS

A. Definitions

1. "Blind person" means a person who is legally blind as defined in III., A., 1., above.

2. "Licensed vendor" means a blind person who has received a license from the Services for the Blind and Visually Impaired which entitles the person to operate a vending facility, receive the profits therefrom, and take responsibility for the continuous maintenance of the facility to which s/he is assigned. The license which an operator receives shall be issued pursuant to the rules and regulations of the Business Enterprises Program.
 3. "State property" means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality wholly owned by the State, unless, with respect to any building, land, or other real property leased or rented by the State, the lease or rental agreement shall prohibit the establishment of such vending facilities.
 4. "Vending facility" includes but is not limited to cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment necessary for the sale of newspapers, periodicals, tobacco products, foods, beverages, and other articles or services dispensed manually and prepared on or off the premises in accordance with all applicable health laws, as determined by ORS/SBVI, and including the vending or exchange of chances for any lottery which may be located on public or private property.
 5. "Automatic vending machine" means any machine which automatically dispenses for money, goods, such as, but not limited to, soda, cigarettes, newspapers, food, videotapes, coffee, etc.
 6. "Acceptable vending company" means a company who provides automatic vending machine services and who agrees to send to the ORS/SBVI proceeds from the operation of any automatic vending machine on State property as determined and agreed upon pursuant to a contract awarded by the Division of Purchases.
 7. "Proceeds" means the vending machine income generated from the operation from an automatic vending machine on State property.
- B. Vending facilities other than automatic vending machines.
1. Vending facilities other than automatic vending machines may be located on public or private property and shall be operated by a licensed blind vendor pursuant to the rules and regulations of the ORS/SBVI Business Enterprises Program.
 2. Whenever feasible, one or more vending facilities should be established on all State property. Every State department, agency, or instrumentality shall

explore the possibility of locating a vending facility on State property under its control.

3. Whenever any department, agency, or instrumentality of the state shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building, such department, agency, or instrumentality shall make all reasonable attempts to assure that such building includes a satisfactory site(s) for the location and operation of a vending facility by a blind person pursuant to the rules and regulations of the Business Enterprises Program. Each department, agency, or instrumentality is encouraged to provide timely notice to DHS that the acquisition, construction, or renovation is planned in order to permit appropriate planning, selection of the site(s) by the RI ORS/SBVI.
4. Whenever any department, agency, or instrumentality of the state with an existing vending facility shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building, such department, agency, or instrumentality shall make all reasonable attempts to assure that such building includes a satisfactory site(s) for the location and operation of a vending facility pursuant to the rules and regulations of the Business Enterprises Program. The cost of relocating and constructing the vending facility at the new site is determined on a case by case basis by the S.L.A.
 - a. A satisfactory site is defined as a site with a high traffic area with a sufficient customer base to support the facility in accordance with 34 CFR 395.31.
 - b. When a decision is made to relocate or acquire a new location, the State department or agency shall, within ten (10) days, notify the Administrator of the Office of Rehabilitation Services/Services for the Blind and Visually Impaired in writing.
 - c. Upon receipt of written notification, ORS/SBVI will determine, with the cooperation of the reporting department and appropriate advice and participation by the RISCOBV, the feasibility of locating a vending facility on the site.
 - d. Accessibility, available space, anticipated volume, available funding, and other relevant factors as determined by the State Licensing Agency (S.L.A.) will be taken into account. After considering the position of the state agency or department, the RI State Committee of Blind Vendors, and all other relevant factors, the S.L.A. shall make the final decision to locate or not to locate a vending facility on the proposed site. A copy of the written decision shall be mailed to the

Director of Administration, the state agency or department, and the RI State Committee of Blind Vendors.

- e. If any department or agency believes that placement or location of a vending facility on the proposed site would adversely affect the interests of the State, a written report justifying and explaining the nature of the adverse effects shall be forwarded to the Director of Administration. The justification shall be provided to the said Director of Administration within ten (10) business days of receipt of the S.L.A. decision to locate or not to locate a vending facility on the proposed site. Copies of the justification shall be provided within the same time frame to the S.L.A. and the RI State Committee of Blind Vendors.
- f. The Director of Administration shall determine within thirty (30) days of receipt of the justification if the location or placement will adversely affect the interests of the State. This determination will be put in writing, provided immediately to the S.L.A., and will be binding upon all departments, agencies, or instrumentalities of the State affected by the decision.
- g. Copies of the all notifications and decisions made pursuant to this section shall be provided to the RI State Committee of Blind Vendors by the S.L.A. for advice as appropriate.

C. Automatic Vending Machines

- 1. In accordance with the rules and regulations of the Business Enterprises Program, vending machine income obtained from the operation of all automatic vending machines on state property shall accrue to:
 - a. The Licensed Operator operating the vending facility, and
 - b. In the event that there is no Licensed Operator operating a vending facility on the property, to the S.L.A. for use in the support of the administration of the Business Enterprises Program.
- 2. All departments, agencies, or instrumentalities of the state, unless exempt, are required to forward the proceeds of automatic vending machines to Services for the Blind and Visually Impaired. In the event that, after reasonable notice, a department, agency, or instrumentality of the State does not forward the proceeds, the S.L.A. shall notify, in writing, the Director of Administration. The Director of Administration shall instruct the state department, agency, or instrumentality to forward said proceeds immediately to SBVI.

3. Identification of automatic vending machines on existing state property.
 - a. The Bureau of Audits shall include in each audit conducted an identification of the location of all vending machines on state property and ascertain where, if anywhere, the proceeds from said automatic vending machines are being sent.
 - b. Upon completion of the audit, the Bureau of Audits shall forward a copy of all sections of the auditor's report that pertain to vending machines to the Department of Administration and to the Director of the Department of Human Services.
 - 1) The failure to forward automatic vending machine proceeds to the S.L.A. shall be identified in the auditor's report as being out of compliance with state law and the report shall direct that action be taken to correct the deficiency.
4. Installation of vending machines on state property
 - a. Before the installation of any automatic vending machine on state property, all state departments, unless exempt, must submit a request for the installation of a vending machine to the Department of Administration, Office of Purchases. The request must be in writing and clearly indicate the type of vending machine the department or agency desires.
 - b. The Office of Purchases, on receipt of a request, will ask for bids from acceptable vending companies. DHS ORS/SBVI shall assist the Office of Purchases in developing the terms of the proposal requesting bids.
 - c. A contract will be awarded to the bidder who offers the state the highest profit. The contract shall require the successful bidder to forward the vending machine proceeds to the S.L.A. for deposit in a restricted receipt account. The proceeds shall be forwarded no less than quarterly.
5. Location
 - a. Whenever any department, agency, or instrumentality of the state shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building, such department, agency, or instrumentality shall make all reasonable attempts to assure that such building includes a site or sites for the location and operation of automatic vending machines.

6. Exemptions

- a. Any department, agency, or instrumentality that believes that the income from an automatic vending machine should also be exempt shall set forth, in writing, how the interests of the state would be adversely affected. They shall justify fully why said vending machine should be exempt. The justification shall be provided to the Director of Administration within ten (10) days of its identification or the state agency's decision to locate an automatic vending machine on either existing state property or newly acquired state property. Copies of the justification shall, within the same time frame, be provided to the S.L.A. and the RISCOBV. The Director of Administration shall, within thirty (30) days of receipt determine if an exemption should be granted. The decision shall be binding once it is filed with the S.L.A. and all exemptions presently in effect will expire on September 30, 1997. Beginning October 1, 1997, all exemptions issued will be reviewed on an annual basis at the end of each fiscal year. Funds will revert to the S.L.A. if:
 - 1) Accurate accounting of the use of such funds is not provided to the Department of Administration and the S.L.A. on an annual basis; or
 - 2) If justification for using the funds received does not cover the full amount of such funds; or
 - 3) If no annual justification for an exemption is received.

IX. VENDING FACILITY EQUIPMENT AND INITIAL STOCK

- A. The S.L.A. is responsible for furnishing each vending facility with adequate initial stocks of merchandise, suitable equipment, and petty cash if necessary for the establishment and operation of such facility.
- B. The right, title to, and interest in the equipment, stock, and petty cash of each vending facility will be vested in the S.L.A. in accordance with the laws of the State of Rhode Island, and, the S.L.A., as the duly authorized agency to administer the Vending Facilities Program, shall safeguard all such equipment, stock, and petty cash, using same for program purposes only.
- C. Expenditures for the purchase of vending facility equipment and initial stock, petty cash, and expenditures for major repairs to vending facility equipment, shall be made in accordance with purchasing and disbursement procedures of the State of Rhode Island.

1. S.L.A. officials, in conjunction with the RI State Committee of Blind Vendors (RISCOBV), shall meet with officials of the Department of Administration/Office of Purchases on an as needed basis for purposes of deciding the following:
 - a. A method(s) for the expedient acquisition of new and replacement equipment and initial stock.
 - b. A method(s) for procurement of certain stock and inventory on a bulk-purchasing basis or utilizing any other purchasing procedure which is suitable and economically advantageous to a majority of vendors.
 - c. Recommendations to establish appropriate expenditure accounts, namely, checking or Imprest Cash Accounts, to expedite the purchase of small equipment, stock and inventory.
- D. Disposition of Equipment, Merchandise, and Petty Cash
1. Upon termination of a vending facility assignment by a vendor, the Blind Vendor shall be permitted to engage in an inventory of all equipment, merchandise, and petty cash, but the S.L.A. shall be responsible to take the inventory as soon as practicable following such termination. The S.L.A. shall, within a reasonable period of time, submit a Profit and Loss Statement to the vendor or his or her heirs, and either pay any remaining profits to him, her or them, or, make demand upon him, her, or them in the event of debt(s) outstanding at such facility.
 2. All equipment and merchandise shall remain at the subject vending facility, excepting perishables and petty cash, until the final inventory is completed.
 3. The petty cash will be returned to the S.L.A. upon termination of assignment and added to the value of final inventory.
 4. Equipment and stock shall be appraised at current fair market value, then sold for such value, or retained for the continued operation of that facility by another vendor, or stored for future use.
 5. Proceeds from the sale of any and all equipment and merchandise, shall be deposited in and credited to the accounts from which they were drawn and apportioned in accordance with the matching ratio in effect at the time of their purchase.

- E. All equipment and permanent stock as purchased by the S.L.A. shall be labeled with a numerical sticker which is clearly marked to reflect its ownership by the State of Rhode Island.
 - 1. A complete inventory of all such goods shall be maintained by the S.L.A..
 - 2. Equipment and permanent stock which is not the property of the State of Rhode Island may be inventoried at the discretion of the S.L.A. for the purpose of determining worth/value in the event of unexpected loss, i.e., theft, fire, etc.

X. MAINTENANCE AND REPLACEMENT OF EQUIPMENT

- A. The S.L.A. shall maintain, or cause to be maintained, all vending facility equipment in good repair and in attractive condition, and the S.L.A. shall replace or cause to be replaced, worn out, or obsolete equipment as required to assure the continued successful operation of the facility.
- B. If there is equipment present at any vending facility the full title of which is not vested in the S.L.A., the latter hereby declares no responsibility or obligation for its maintenance, repair, and replacement.
- C. Vending facility equipment in need of repair or replacement shall be reported to the S.L.A. without delay. Subsequent to such report, the S.L.A. will determine the costs of repair/replacement. These costs must be verified by written documentation from an appropriate licensed repair person.
- D. Each vendor shall take reasonable care of the equipment assigned to his or her facility, and perform routine, day-to-day cleaning and maintenance procedures.

XI. SETTING ASIDE OF FUNDS

- A. The S.L.A. will set aside, or cause to be set aside, the net proceeds of the operation of all vending facilities under the program and assigned vending machine income, a sum of money which will be based upon a fixed percentage, which shall apply equally to each vending facility without regard to any vending facility or vending machine. Such method of assessment as outlined below.
 - 1. The method by which the S.L.A. shall cause funds to be set aside from the net proceeds of all vending facilities and locations is as follows:

Following each inventory period, or at least twice each year, the net proceeds of each vendor and the retained income from vending machines shall be multiplied by ten percent (10%), or less depending upon the annual capital

requirements of the Vending Facilities Program; and such resultant sums shall be deposited in conjunction with the payment of costs as outlined in this subsection B., 1.

2. Set aside rate

a. The set aside rate will be considered on an annual basis depending on the program's projected expenses as determined by the S.L.A. and RISCOBV Executive Board until gradual elimination of the set aside collection is achieved. (See also A. of this subsection.)

B. The S.L.A. shall provide for the establishment, with the active participation of the State Committee of Blind Vendors, of a set aside schedule covering each of the purposes for which set aside funds are to be used. Moreover, the S.L.A. shall provide for establishment of the method of determining the charge for each of the intended purposes, as outlined below.

1. The charges to be applied for purposes of providing maintenance and replacement of equipment, the purchase of new equipment, and management services shall be based upon the level of such charges made in the fiscal year prior to the year in which such charges are applied, or at the rate of thirty percent (30%), plus a reasonable increase for all such purposes as is necessary to the growth of the vending facilities program.
2. The charge for assuring a fair minimum return to vendors shall be applied at the rate of thirty percent (30%) of the total of all funds set aside in any fiscal year, and the amount and method of disbursement of such minimum return shall be in the form of an annual reimbursement equal to the State Minimum Wage Scale multiplied by the average number of hours during which the vendor is normally employed. In no instance shall the reimbursement for guaranteed fair minimum return be calculated at less than the Federal fair minimum wage. Holidays and the cost of substitute labor will be deducted from payments for guaranteed fair minimum wage. At locations where there has been no significant change in building populations and the facility was previously operated at or above the minimum wage, no guaranteed fair minimum wage will be paid. If the building population declines and a guaranteed fair minimum payment is required, an annual determination will be made as to whether to close the facility or keep it open for another year by the S.L.A. and RISCOBV Executive Board. (See 1. above.)
3. Participating vendors must forward payments for health insurance and dental insurance to the S.L.A. on a monthly basis by the twentieth (20th) of each month. The S.L.A. will continue to be responsible for administering such health and dental plans. Private plans may also be retained by vendors within the program.

4. Retirement or pension plans will be provided directly by each operator at his or her own election.
5. Set Aside Schedule

Funds will be set aside only for the purposes of:

- a. Maintenance and replacement of equipment;
 - b. Purchase of new equipment;
 - c. Management services;
 - d. Assuring a fair minimum return to vendors; and
 - e. The establishment and maintenance of retirement or pension funds, health insurance contributions, and provisions for paid sick leave and vacation time as it is so determined by a majority vote of blind vendors licensed by the S.L.A., after such agency provides to each such vendor information on all matters relevant to such proposed purposes.
- C. The S.L.A. shall provide for the maintenance of adequate records to support the reasonableness of the charge for each purpose, and the S.L.A. shall submit any change in the set aside schedule to the Commissioner of Rehabilitation Services Administration (RSA) for approval prior to such change being put into effect.

XII. DISTRIBUTION AND USE OF INCOME VENDING MACHINES ON FEDERAL PROPERTY

- A. Vending machine income from vending machines on Federal property which has been disbursed to the State Licensing Agency by a property managing department, agency, or instrumentality of the United States under the vending machine income sharing provisions in 34 CFR 395.8 shall accrue to each blind vendor operating a vending facility on such Federal property in an amount not to exceed the average net income of the total number of blind vendors within such State, as determined each fiscal year on the basis of each prior year's operation, except that vending machine income shall not accrue to any blind vendor in any amount exceeding the average net income of the total number of blind vendors in the United States.
- B. No blind vendor shall receive less vending machine income than he was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ceiling.

- C. No limitation shall be imposed on income vending machines, combined to create a vending facility, when such facility is maintained, serviced, or operated by a blind vendor.
- D. The S.L.A. will retain vending machine income disbursed by the property managing department, agency or instrumentality of the United States in excess of the amounts eligible to accrue to blind vendors. The S.L.A. will also retain all income covered in Part XI until a vote of the RISOBV is taken to distribute such income. The remaining retained funds, if any, shall be used as outlined in XII., F., below.
- E. The S.L.A. will disburse such vending machine income to blind vendors on at least a quarterly basis.
- F. Any vending machine income not necessary for such purposes shall be used for one or more of the following:
 - 1. Maintenance and replacement of equipment; purchase of new equipment; management services, and assuring a fair minimum return to vendors.
 - 2. Any assessment charged to blind vendors shall be reduced pro-rata in an amount equal to the total of such remaining vending machine income.

XIII. OPERATING AGREEMENTS BETWEEN STATE LICENSING AGENCY AND BLIND VENDOR, AND, BETWEEN STATE LICENSING AGENCY AND BLIND VENDOR/BLIND OPERATORS

- A. The S.L.A. hereby adopts, with modifications and additions made by it and the State Committee of Blind Vendors, that guide-line entitled, Agreement For Operation of a Vending Facility Under Randolph-Sheppard Act Between the State Licensing Agency and _____, a Licensed Blind Vendor, as transmitted by RSA-PI-78-14, filed herewith as Attachment XI-A.
- B. The S.L.A. hereby adopts in their entirety, the Instructions and Permit Form as transmitted by RSA-PI-78-9 and entitled, Instructions for the Application..., and, Application and Permit for The Establishment of a Vending Facility on Federal Property..., respectively, and such procedures shall apply to the establishment of all facilities by the S.L.A..

XIV. ELECTION, ORGANIZATION, AND FUNCTIONS OF STATE COMMITTEE OF BLIND VENDORS

- A. The S.L.A. shall provide for the biennial election of a State Committee of Blind Vendors, the functions of which are:

1. Actively participate with the State licensing agency in major administrative decisions and policy and program development decisions affecting the overall administration of the State's vending facility program;
 2. Receive and transmit to the State licensing agency grievances at the request of blind vendors and serve as advocates for such vendors in connection with such grievances;
 3. Actively participate with the State licensing agency in the development and administration of a State system for the transfer and promotion of blind vendors;
 4. Actively participate with the State licensing agency in the development of training and re-training programs for blind vendors; and
 5. Sponsor, with the assistance of the State licensing agency, meetings and instructional conferences for blind vendors within the State.
- B. The S.L.A., in order to assure opportunity for effective and constructive active participation by the Committee, shall provide for a communications procedure under which the Committee is provided notice of matters within its purview that are being considered for decision, and under which appropriate sub-committees or individual members will receive notices of and invitations to attend important discussion and decision-making meetings in areas of the sub-committee's interest. In addition, the committee, in its role of active participant in decision making and administration consistent with 34 CFR 395.3, 395.14 and 395.7(c), shall have the opportunity to initiate matters for consideration by it and the S.L.A., and make meaningful contributions to the State's vending facilities program with its views and positions taken into careful and serious account by the S.L.A.. The S.L.A. has the ultimate responsibility for the administration of the State vending facilities program and if the agency does not adopt the views and positions of the State Committee of Blind Vendors, it will notify the committee in writing of the decision reached or the action taken and the reasons for the decision/action taken.

XV. ADMINISTRATIVE REVIEW, EVIDENTIARY HEARINGS AND ARBITRATION OF VENDOR COMPLAINTS

- A. The S.L.A. hereby adopts, with certain modifications, and incorporates herein, the procedures set forth in RSA-PI-77-27 entitled, Procedures for Administrative Review and a Full Evidentiary Hearing Under the Randolph-Sheppard Act.
- B. The S.L.A. hereby incorporates the policies and procedures, as set forth in their entirety in RSA-PI-78-17, entitled Revised Interim Policies and Procedures for Convening and Conducting an Arbitration Pursuant to Sections 5(b) and 6 of the Randolph-Sheppard Act as Amended.

XVI. ACCESS TO PROGRAM AND FINANCIAL INFORMATION

- A. The S.L.A. shall, upon request, within a reasonable period of time, provide to each blind vendor access to all program and financial data of the S.L.A. relevant to the operation of the vending facility program, including quarterly and annual financial reports, provided that such disclosure does not violate applicable federal or state laws pertaining to the disclosure of confidential information.
 - 1. Insofar as practicable, such data shall be made available in Braille, large print and/or on recorded tape, upon request.
 - 2. At the request of the vendor the S.L.A. will arrange a time convenient to both parties during normal work hours to assist in the interpretation of such data.

- B. The S.L.A. shall review with the RISCOBV Chairperson or his/her designee revenue and expenditures involving the use of funds to be set aside from the operation of vending facilities or caused to be set aside from unassigned vending machines on a monthly basis.
 - 1. The Chairperson will share this information with the State Committee or its Executive Committee as deemed appropriate.
 - 2. Quarterly reports concerning this fund will be provided to all members of RISCOBV Executive Committee by the S.L.A..

XVII. EXPLANATION OF RIGHTS AND RESPONSIBILITIES OF AND TO VENDORS

- A. The S.L.A. shall furnish to each vendor copies of documents relevant to the operation of an assigned vending facility including the following:
 - 1. The Agreement for Operation and Vending Facility Permit covering the operation of an assigned facility.
 - 2. A copy of these Program Rules and Regulations.
 - 3. A written description of the arrangements for providing services.

- B. Each vendor to be licensed and assigned in the future, and each vendor undergoing upward mobility training, shall receive as part of her/his training, preparatory to her/his licensing or advancement, full information as to the provisions contained in these Rules and Regulations.