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Sections 1 & 2

I. PURPOSE

- A. The purpose of the Randolph Sheppard Technical Assistance and Guidance Manual is to set forth guidelines in order to ensure that vending facility customers are provided with high quality products and customer service while maximizing employment and economic opportunities for legally blind individuals in vending/food service operations.

II. LEGAL AUTHORITY

A. Federal Law

- 1. The Louisiana Department of Social Services derives its authority to Operate the Louisiana Business Enterprise Program from 20 U.S. C. 107 et. seq. commonly referred to as the Randolph-Sheppard Act. This legislation gives to this Agency priority for the establishment of vending facilities on federal property.

A. Designation as a State Licensing Agency

- 1. The Louisiana Department of Social Services has been designated by the Secretary of the United States Department of Education as the State Licensing Agency under the Randolph-Sheppard Act (20 U.S.C., Chapter 6, Section 107 et. seq.)

B. State Law

- 1. LA R.S. 46:333 gives preference to the blind in operation of vending facilities, vending machines,

and other small business concessions to be operated on the premises of state buildings and buildings.

C. Rules and Regulations/Business Enterprise Program Manual

1. Louisiana Business Enterprise operates in accordance with Chapter 5 of the rules and regulations of the Department of Social Services. These rules have been duly promulgated in accordance with R.S. 49:664.4 and R.S. 36:477. LA R.S. 46:2641 provides for the establishment of the Blind Vendors Trust Fund. Such rules are issued in compliance with the Randolph-Sheppard Act as amended.

D. Administrative Procedures Act

1. LA R.S. 19:950 (et. seq.) is the Administrative Procedure Act for the authority to promulgate rules.

E. Technical Assistance and Guidance Manual

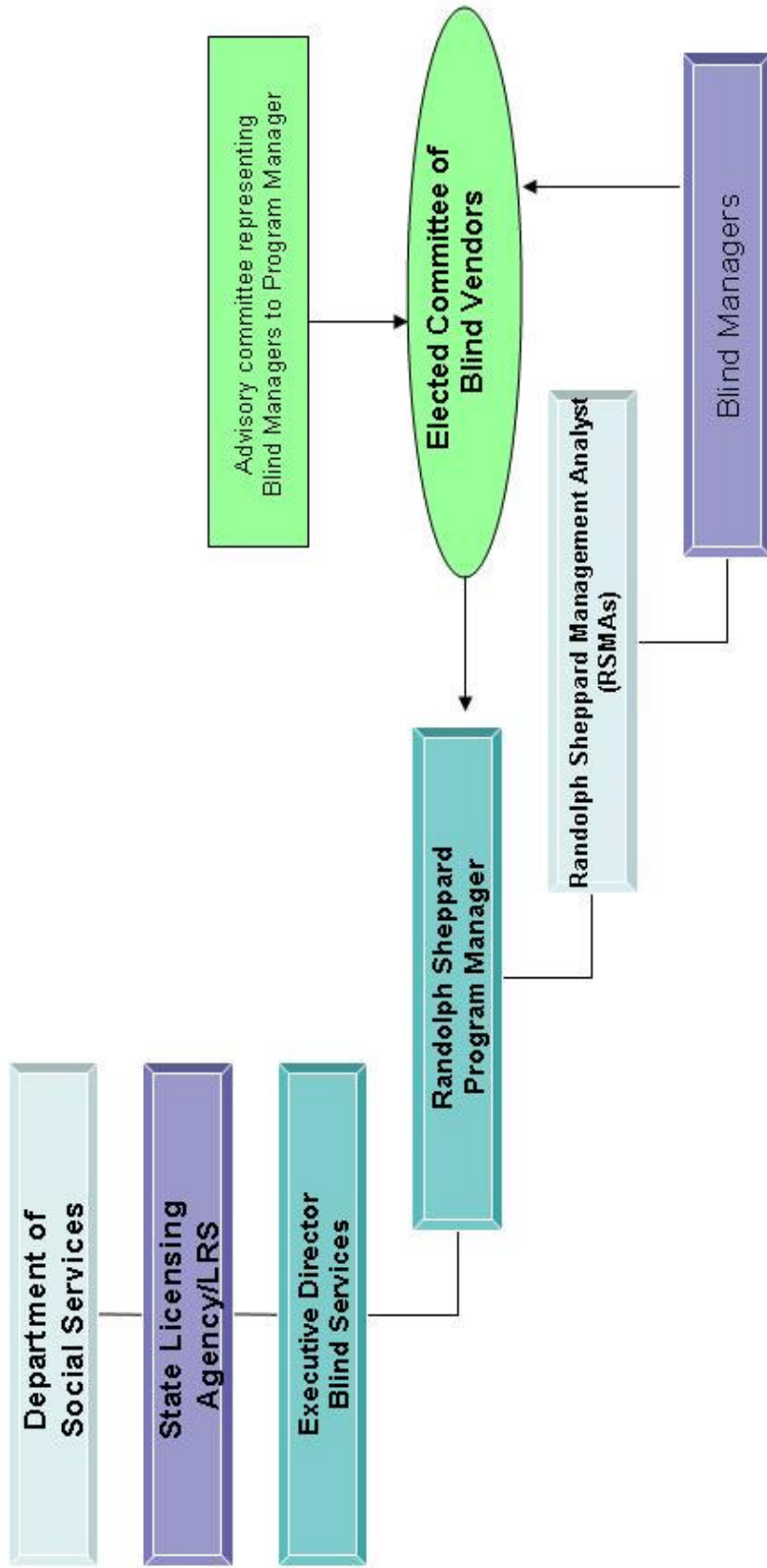
1. Each Licensed Manager, and Business Enterprise staff person and employee of the Randolph Sheppard program will be furnished with a copy of the Technical Assistance and Guidance Manual.
2. It is understood that the Technical Assistance and Guidance Manual does not replace the Chapter 5. Business Enterprise Program Manual, but rather supplements the rules to better enable the Licensed Managers to comply with the day-to-day requirements of the program. From time to time, revisions to the manual, with effective dates, will be

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distributed to each Licensed Manager and Randolph Sheppard Management Analyst (RSMA).

3. Upon receipt of the official Randolph Sheppard Technical Assistance and Guidance Manual, the Randolph Sheppard Management Analyst will sign a statement of receipt of the manual and will provide this signed statement to the Randolph Sheppard Program Manager.

# Randolph Sheppard Organization Chart



## Section 4

## Definitions

Active Participation - a process of good faith negotiations involving the elected committee of licensed managers and the State Licensing Agency. The committee must be given the opportunity to have meaningful input into the decision-making process in the formulation of program policies that affect licensed managers. The SLA is charged with the ultimate responsibility for the administration and operation of all aspects of the Business Enterprises Program.

Blind Person - a person who, after examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the person shall select, has been determined to have:

- a. not more than 20/200 central visual acuity in the better eye with correcting lenses; or
- b. an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

Blind Services Executive Director - the person responsible for administering and coordinating services to the blind and severely visually impaired individuals of the state.

Blind Vendors Trust Fund - monies collected from certain vending machines located on state, federal, and other property, and the disbursement thereof.

Business Enterprises Program (BEP) - the Business Enterprises Program services available to establish business enterprises for

persons who are blind. Also known as the Randolph Sheppard Program.

Consumer - any person who has made application for the State Licensing Agency's services and has been determined by the State Licensing Agency to be eligible for services.

Contract - a written agreement between the State Licensing Agency and officials in control of federal or other property to establish a business enterprise. Also known as "Agreement".

Counselor - Rehabilitation Services counselors assigned to the State Licensing Agency's Program of Vocational Rehabilitation.

Director or Executive Director - the chief administrator of the State Licensing Agency.

Displaced Manager - a licensed manager who has been displaced from his or her business enterprise through no fault of his or her own.

Elected Committee of Licensed Managers (ECM) - the committee elected biennially by licensed managers in accordance with 34 CFR 395.14.

Grantor - a federal, state, county, parish, city government, private corporation, company, partnership, or individual who grants a permit or enters into an agreement with the State Licensing Agency to operate a business enterprise on its/their property.



Grantor's Agreement - a written document between a grantor and the State Licensing Agency that sets forth the terms, conditions and responsibilities of all parties to the agreement for the operation of a business enterprise on private and/or public property.

Gross Receipts - all revenue including sales tax.

Initial Stock and Supplies - resalable items or supplies necessary for the opening and operation of a specific type of business enterprise.

License - a written instrument issued by the State Licensing Agency to a person who is blind, authorizing such person to manage a business enterprise.

Licensed Manager - a licensed individual who has signed an agreement with the State Licensing Agency to manage a Randolph-Sheppard Vending Facility under the supervision of the State Licensing Agency, or an individual awaiting assignment to a vending facility.

Manager's Agreement - an agreement between a Licensed Manager and the State Licensing Agency, establishing basic terms and conditions for management of a business enterprise.

Net Earnings or Net Profits - gross profit after deducting operating expenses.

Net Proceeds - the amount remaining from the sale of articles or services of business enterprises and a vending machine income or other income accruing to licensed managers after deducting

the cost of such sales and other authorized expenses excluding set aside charges required to be paid by the licensed managers.

Net Sales - the sum total of sales, excluding sales tax.

Permit - the official approval given a State Licensing Agency by a department, agency, or instrumentality in control of the maintenance, operation and protection of federal property or person in control of other property where the State Licensing Agency is authorized to establish a business enterprise.

Randolph-Sheppard Act - Public Law 74-732 as amended by Public Law 83-565, Public Law 93-516, and Public Law 95-602, 20 U.S.C. Chapter 6A, Section 107.

Randolph Sheppard Management Analyst (RSMA) - an individual who provides consultative and management services to those business enterprises and licensed managers in the area of the state to which the consultant is assigned.

Randolph Sheppard Program Manager - the person who has responsibility for the operation of the Business Enterprises Program in the state.

Routine/Preventive Maintenance - the regular care, upkeep, and cleaning of equipment used in a business enterprise whether owned by the State Licensing Agency or the licensed manager.

Rules and Regulations - the instrument written by the State Licensing Agency and approved by the Secretary of Education setting forth the conduct and operation of the Business

Enterprises Program. Officially titled Business Enterprise Program Manual, it is found in the Louisiana Administrative Code.

Salable Stock - products comprising the merchandise available for sale to the public.

Satellite Business Enterprise - a business enterprise without a permanently assigned licensed manager that is being operated by a licensed manager who is also operating his/her regularly assigned business enterprise.

Satisfactory Site - an area determined by the BEP Administrator to have sufficient space, electrical and plumbing outlets, and other such accommodations as prescribed by the Act, for the location and operation of a business enterprise in accordance with applicable health laws and building codes.

State Licensing Agency (SLA) - the state agency that issues licenses to persons who are blind for the operation of business enterprises on public and/or private property.

Trainee - a qualified Vocational Rehabilitation consumer, who when referred to the Business Enterprises Program, is placed in training to prepare for licensing under the rules and regulations of the State Licensing Agency.

Training Program - the program of study and/or on-the-job training provided to prospective and/or experienced licensed managers.

Vending Facility - automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by licensed managers

and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws and including the vending or exchange of changes for any lottery authorized by state law and conducted by an agency of a state within such state [CFR 34, Part 395.1(x)].

Vending Machine - any coin or currency operated machine which dispenses articles or services, except any machine operated by the United States Postal Service for the sale of postage stamps or other postal products and services. Machines providing services of a recreational nature and telephones shall not be considered to be vending machines.

Vocational Rehabilitation Services - those services as defined in the Rehabilitation Act, 1973, as amended.

## Section 5

### I. Licenses and Permits

- A. A license is a written instrument issued by the SLA to a Licensed Manager, authorizing such person to operate a business enterprise on federal or other property.
- B. A permit is a written instrument issued by the SLA to a Licensed Manager to operate a business enterprise in a particular facility.
- C. Both the license and permit will be displayed conspicuously in the facility along with other required federal and state postings.
- D. Only one permit can be issued at any one time to a Licensed Manager.
- E. The Licensed Manager will be given the permit at the time of the initial inventory.
- F. The license will be given to the Manager after all agency approved training is completed.
- G. There will be a signed agreement between the Licensed Manager and the SLA identifying the responsibilities of the Manager as listed in Form 709 agreement between the Licensed Manager and the SLA. Once signed by the Licensed Manager, this agreement is binding. This agreement is provided to the Licensed Manager at the time of the initial inventory.
- H. No Licensed Manager will be allowed to exchange his/her facility with another Manager. Normal facility

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selection guidelines including advertisement and appointment will be followed.

- I. Refer to the section 9, “Assignment/Transfer of Licensed Managers” for information regarding Manager transfers and promotions.

Section 6

I. Management Services Provided by the State Licensing Agency

A. Overview of Management Services – The agency recognizes that effective Management services are contingent upon the establishment and maintenance of smooth working relationships between Agency staff, property management officials, Licensed Managers, and others who are involved with the program.

1 Management Services - the SLA shall provide each manager with regular and systematic management services, which shall, at a minimum, include:

- a) Explanations of the SLA's rules, procedures, policies, and standards;
- b) recommendations on ways in which the facility may be made more profitable for the manager;
- c) techniques to develop positive relationships with customers, assistants and management of the host organization;
- d) possible solutions to problems recognized by the Licensed Manager or brought to the manager's attention by SLA staff or the facility host;
- e) continuing education and training courses and opportunities for Licensed Managers designed to enhance skills, productivity and profitability; and

- f) information about laws, rules, and regulations affecting the operation of a vending facility.
- g) regular and systematic consultant services by an assigned RSMA. To insure consistent and effective support, the SLA shall establish standards of performance for all RSMAs. (See Section XII)
- h) Establish the conditions for the operation of the vending facility. These conditions are documented in the Agreement Between the Licensed Manager and the SLA(Form 709). Operating conditions may include among other things, competitive pricing agreements, hours of operation, menu items, or product lines. The SLA may revise the operating conditions from time to time as market conditions warrant.
- i) Upon request, the SLA shall provide Licensed Managers with access to general BEP financial data.
- j) Inventory payment - upon manager transfers the SLA shall pay the Licensed Manager or, in the event of a manager's death, the Manager's heirs the value of the usable stock and supplies above the amount provided to the Manager upon initial assignment. If there is an inventory shortage the Manager is responsible for re-paying the difference to the SLA.



## Section 7

### I. Training

A. The SLA shall ensure that effective programs of vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, shall be provided to trainees as vocational rehabilitation services. Such programs shall include on-the-job training in all aspects of business enterprise operations for Licensed Managers, and upward mobility training including further education and additional training or retraining for improved work opportunities for all Licensed Managers. (34 CFR 395.11

- 1 Training for New or Potential Licensed Managers.  
Training for potential or new licensed managers will cover the basic and common knowledge, skills, and abilities necessary to operate a business enterprise. This training will use instruction and on-the-job training to cover such topics as the history and statutory foundations of the BEP, acceptable business practices, the rules and regulations of the BEP, employee supervision, food preparation and handling, operation and maintenance of equipment and furnishings, merchandising, and quality customer service. Please refer to Chapter 4, Part 412.25, D, 1-6 of the Technical Assistance and Guidance Manual for specific guidelines for the training process for trainees.
- 2 Training for Present Licensed Managers.  
Post-employment training will be provided by the SLA to encourage greater professional competence and to promote the upward mobility of the Licensed

Manager. The training will, through instruction and on-the-job training, enhance the knowledge, skills, and abilities needed to operate and improve the operation of present enterprises, and to prepare for the operation of a more comprehensive enterprise, supervisory practices relevant to larger operations, changing policies and laws, and state of the art merchandising techniques and equipment. Such a training program can be included in the quarterly meetings with the Elected Committee and will also incorporate the use of peer trainer workshops in best practices. All training will be conducted by the State Licensing Agency with consideration of needs and topics identified by the Elected Committee.

- 3 Upward Mobility Training - refers to training which would enable a vendor to achieve increased skill levels necessary for transfer and promotion to more complex facilities. This does not necessarily include training on rules and regulations or generic training provided to all vendors. Licensed Managers are required to attend at least one upward mobility training session every two years to maintain their certifications and eligibility to bid. This training is geared specifically to inform Licensed Managers of new BEP developments and to provide instruction on new, relevant topics to enhance upward mobility.
- 4 Reimbursement of Training Expenses – The Agency will provide travel reimbursements to Licensed Managers for training related expenses in accordance with the DSS Policy on Travel Regulations. (PPM 49)

## Section 8

- I. Assignment, Transfer of Licensed Managers.
  - A. The State Licensing Agency (SLA) will carry out assignments and transfer of Licensed Managers through business enterprise vacancy announcements, eligibility verification and establishing and convening a screening committee.
    - 1 Application Process:
      - a) All vacancy announcements for facilities will be posted for a minimum of 15 calendar days. The posting will include the following information: desired qualifications of manager, typical menu, and need for background checks, etc. In order to obtain information specific to a vending facility opening, it shall be the responsibility of the Licensed Manager to read the vacancy announcement at the time of posting. In order to be considered as an applicant for the facility, the application must be returned no later than 4 p.m. on the announcement closing date. Applications must contain the applicant's original signature. If the applications submitted via fax, the applicant must follow up by phone with the Randolph Sheppard Program Manager (RSPM) to ensure that the application was received by the RSPM.
      - b) Interested applicants are required to participate in an on-site visit to tour the advertised facilities with a Randolph Sheppard Management Analyst (RSMA) or RSPM. Tour dates and times will be announced by the RSPM and

RSMA. An alternate date to tour the facility will only be granted in situations where,

- (1) the applicant is unable to attend the originally scheduled tour due to unique circumstances, and
- (2) an alternate tour can be scheduled within a reasonable time and date frame.

- c) The applicant must meet the minimum qualifications established for the specific vacant business enterprise for which an application is being submitted. Note: it is the responsibility of each applicant to maintain all documentation necessary to complete his/her application and to submit a completed application. An updated current application must be submitted each time an applicant applies for a vending facility. The above pertains to both present managers as well as incoming first-time managers. The Randolph Sheppard program personnel will not maintain such documentation for the licensees.
- d) Level 4 & 5 facilities may require a formal interview as part of the application process. Applicants should refer to the specific vacancy announcement for further details. Applicants shall be notified by first class U.S. Mail of the date, place and time of the selection panel interview no fewer than 7 calendar days prior to the convening of the selection panel.

## Section 9

### I. Selection Process of Randolph Sheppard Managers

#### A. Eligibility Criteria

- 1 The purpose of the Selection Process for Randolph Sheppard Managers procedures is to provide established criteria for the selection of a facility manager in order to provide a fair, unbiased, and impartial process for the selection, transfer, and promotion of managers for Randolph Sheppard vending facilities. Extra consideration will be given to displaced licensed managers by awarding two (2) additional points to their total score.
- 2 In order to apply for an available facility, the applicant must be Licensed and in \*Good Standing\*:
  - a) a manager cannot be on probation or suspended at the time of a facility announcement; and,
  - b) if applicable, must have an approved repayment plan toward which he/she is current and has made regular payments, as agreed upon by SLA, for the previous six (6) months.
  - c) the manager must not have submitted two or more late reports within the 12 months prior to the date of the facility announcement.

#### B. Selection Criteria

- 1 All prospective vending facility managers' applications will be graded and assignments will be made based on the following qualifications:

- a) Managerial and Other Skills and Abilities demonstrated by the licensed managers under consideration as they fit the available business enterprise, including:
  - (i) handling labor needs
  - (ii) complexity of financial skills
  - (iii) food preparation and production
  - (iv) customer relations.
  - (v) inventory management
  
- b) Previous Records of the Licensed Manager Under Consideration, including:
  - (i) consideration of timeliness and accuracy of record keeping:
    - (a) The licensee must not have submitted two or more late reports Within the 12 months prior to the date of the facility announcement.
  - (ii) customer satisfaction
  - (iii) improvements in profits
  - (iv) safety and sanitation inspections
  - (v) fees, taxes, and bill payment history:
    - (a) The licensee must have been current on all accounts payable to LRS at least 6 months prior

to the date of the facility announcement.

- (b) The licensee must not have submitted any insufficient fund checks to the state licensing agency (Louisiana Rehabilitation Services) within the 12 months prior to the date of the facility announcement.
- (vi) initiative shown in upgrading skills, i.e., Upward Mobility Training
- (vii) regularity of work attendance
- (viii) compliance with applicable rules and law
  - (a) The licensee must not be on probation under the section of these rules relating to administrative actions.
  - (b) The licensee must meet the eligibility requirements of the facility's host organization.
- (ix) past evaluations by the SLA
  - (a) If unassigned, the licensee must have fulfilled all resignation requirements in the licensee's last facility, or be displaced and eligible to apply for a facility.

- (b) A licensee who is currently on probation is not eligible for promotion.
  - (c) A licensee who has been placed on probation twice within a twelve- month period is not eligible for promotion or transfer for six months following release from probation.
  - (x) Applicant must maintain current all required certifications, such as the National Restaurant Association’s “ServSafe Certification”.
- c) Seniority of eligible licensed managers will be considered ONLY in “tie” situations. When two or more managers have received the same performance grade, seniority will be factored in for the senior licensed manager by adding one (1) point to his/her overall score.
- d) A “Displaced Manager” will receive two (2) additional points added to his/her overall score. These points may only be used toward vacant facilities equal to or lower than the facility which they were displaced from.

### C. Displaced Managers

- 1 A Displaced Licensed Manager will only be considered for placement for a vending facility if he/she is currently in “good standing” and is current on all payment plans.



2. A Displaced License Manager is only eligible to go to a facility that is at a level equal to or lower than the one from which he/she was displaced. For example: A manager displaced from a level 2 facility may only use the additional displacement points for vacancies of level 2 or below.

D. Transfers of Vending Manager

- 1 Managers will only be considered for transfer to another facility once they have managed their current vending facility for a minimum of six (6) months.

E. Selection Conference

- 1 The Randolph Sheppard Program Manager will convene the Selection Conference in accordance with Section 10 of the Randolph Sheppard Technical Assistance and Guidance Manual.

F. Reports of Improper Contact:

- 1 Members of the selection panel must report alleged improper contacts to the BEP Program Manager. Once improper contact has been made the selection panel member must immediately report the contact to the RSPM.
  - a) Improper contact is defined as communication with a member of the selection panel for the purpose of influencing or manipulating the selection of an applicant being considered, by offering something of value, including promises of future benefit or threat of a negative consequence. This contact pertains to any contact by applicant, non-applicant, or any other persons on applicant's behalf.

- b) Nothing contained in this section, however, shall be deemed to prohibit any licensee from endorsing or supporting any candidate for selection by furnishing a letter or other document to be included with the licensee's application.
- c) At the conclusion of the selection panel's responsibilities, each panel member shall be required to sign a statement certifying whether the member had, or had knowledge of, an improper contact during the selection proceedings.

2 Improper contacts/threats to applicants/individuals considering application:

- a) Any Manager considering applying for an advertised location, who is contacted for the purpose of influencing or manipulating their decision to apply, should immediately contact the RSPM.

3 Process for investigating reports of improper contact:

- a) When alleged improper contact is reported, each applicant for the facility under consideration and the ECM Chairman shall be informed as to the occurrence of an alleged improper contact.
- b) The information provided to the applicants shall describe the nature of the alleged improper contact but shall not divulge the identities of any persons allegedly participating in such improper contact.
- c) Each applicant may make objection to continuation by the existing panel and request that a new panel be formed to select the manager for the available facility.
- d) The RSPM, upon the request of any applicant for the facility, shall determine if the improper contact is such as to require that the panel is disbanded and a new panel formed.
  - (i) In making that decision, the RSPM shall consider all relevant factors, including the objections, if any, of the applicants, to determine if the improper contact is likely to influence the decision of the selection panel.

- (ii) If the RSPM determines that the improper contact is likely to influence the selection process, the RSPM shall direct that the panel be reformed.
- (iii) The RSPM shall inform all applicants of his decision to continue the selection process with the existing panel or to form a new panel and shall state the basis of the decision.
- (iv) The actions prescribed as consequences of improper contact set forth in policies pertaining to administrative actions shall apply whether or not any improper contact results in the panel being reformed.

4 Exceptions to assignment and selection procedures:

- a) Unusual circumstances, and items not covered by procedures may require exceptions to assignment and selection procedures. Exceptions to these procedures shall be made only if failure to react to the circumstance would be detrimental to the Vending Facility or a licensee.
- b) Notwithstanding anything in this section, no exceptional procedure shall result in the removal of a manager from a facility except for reasons contained in policies pertaining to administrative actions.
- c) Assignment and selection decisions that are exceptions to these procedures shall be made by the RSPM after discussing relevant

information with the ECM chairperson and receiving the chairperson's recommendation.

- d) Should a decision contrary to the ECM chairperson's recommendation be made, the RSPM shall provide a written explanation of the decision to the ECM chairperson.

#### G. Manager Refuses to Accept Location

- 1 In situations where a Licensed Manager applies for a location and is selected for the location, but then chooses not to accept the awarded facility, the following will apply:
  - a) A Licensed Manager who has applied three times in one year for a location, and turns down all three offers will not be allowed to reapply within one year from the date of the last offer extended.
  - b) A Licensed Manager who initially accepts a facility assignment and is issued a permit for the facility, but then later chooses not to accept the facility award will no longer be qualified for a location since issuance of the new permit canceled the prior permit.
  - c) If the Licensed Manager appointed to a vending facility decides not to accept the facility and is not a current permit holder, the Licensed Manager will be required to wait six (6) months before he/she is allowed to apply for a new assignment.

Section 10

I. Screening Committee and Recommendation for Assignment

A. Career Advancement Assignment:

- 1 All career advancement opportunities are dependent upon the availability of vacant Vending Facilities.
- 2 As Vending Facilities become available and ready for assignment, written notice of availability shall be given to all licensees within 30 calendar days.
- 3 The application process for career advancement to Level 4 & 5 vending facilities may include a formal interview process.

II. Selection Process for Level 1 & 2 Vending Facility Vacancies

A. The Selection Committee shall consist of:

- 1 Two voting RSMA staff members selected on a rotating basis
- 2 Two voting Louisiana Elected Committee Members, selected on a rotating basis
- 3 The Randolph Sheppard Program Manager shall develop the rotation schedule in cooperation with the Louisiana Blind Vendors Elected Committee Chairperson
- 4 The Randolph Sheppard Program Manager shall act as the Chairperson of the Selection Committee and be the responsible party for ensuring that all

selection policies and procedures are followed. The Elected Committee Chairperson shall be present at the meeting

- B. The Selection Committee will evaluate each applicant based upon the selection criteria listed above.
  - 1 Each Panel Member will rate applicants on a 1 to 3 scale for each of the selection Criteria.(1 being the lowest & 3 being the highest)
  - 2 Scores will be tallied for each applicant
  - 3 The applicant with the highest score will be awarded the vending facility

III. Selection Process for Level 4, & 5 Vending Facility Vacancies

- A. The Selection Committee Interview Panel shall consist of:
  - 1 Two voting RSMA staff members selected on a rotating basis
  - 2 Two voting Louisiana Elected Committee Members, selected on a rotating basis, appointed by the Chairperson of the Louisiana Elected Committee of Blind Vendors
  - 3 The Randolph Sheppard Program Manager shall develop the rotation schedule in cooperation with the Louisiana Blind Vendors Elected Committee Chairperson
  - 4 The Randolph Sheppard Program Manager shall act as the Chairperson of the Selection Committee and be the responsible party for ensuring that all

selection policies and procedures are followed. The Elected Committee Chairperson shall be present at the meeting

B. Business Plan

As part of the interview applicants may be required to develop and present a business plan for the vacant facility. If a business plan is required the applicant shall be notified in writing of the following:

- 1 An information packet will be sent to all eligible applicants who meet qualifying criteria for placement. The packet will include:
  - a) A request for the applicant to develop, and bring to interview, a proposed business plan for the location
  - b) The applicant will be told that he/she is expected to present the plan and what evaluation criteria will be used

C. Notification of Selection Panel's decision

- 1 All applicants shall be notified of the Selection Committee's decision by the Randolph Sheppard Program Manager within seven (7) calendar days of the selection

D. If no qualifying applicant can be selected for a vacant vending facility, a temporary Licensed Manager shall be placed in the vending facility until a permanent selection is identified

III. Interview Scoring Criteria Evaluation criteria will be as follows:



A. General Knowledge - A review of the applicant's general knowledge of the Randolph Sheppard Program

1 The applicant is evaluated on the following criteria:

- a) Ability to explain the Randolph Sheppard Program and intent from a Federal and State standpoint (including the federal legislation enacted in 1936 called the Randolph-Sheppard Act and corresponding state legislation)
- b) Knowledge of all applicable Health Codes
- c) Accountancy principles such as profit and loss statements, inventory control, cost analysis, and other financial data
- d) Management skills and level of experience in business operations including managing personnel. Professional appearance and demeanor

2 Scoring on each variable in this section will occur using sliding scale based on the following:

- Score: (1) minimal knowledge - Applicant has minimal knowledge and has difficulty answering and/or reporting on the items identified. Applicant is below standard of presenting well and grooming and demeanor is below the standard
- Score: (2) average knowledge- Applicant has average knowledge and answers the questions related to the items identified adequately and/or reporting of the items identified satisfactorily. Applicant meets standard of presenting well and

grooming and demeanor is at a satisfactory professional level

- Score: (3) above average knowledge- Applicant has above average knowledge and answers the questions related to the items identified above average and/or reporting of the items identified above average and by giving an example. Applicant meets the standard of presenting well and grooming and demeanor is at a professional level and above average

B. Business Plan (If required) - Discussion and presentation of the applicant's proposed Business Plan for the available Vending Facility

1 The applicant is evaluated on the following criteria:

- a) The quality of the presentation and knowledge of the business plan
- b) The technical accuracy and viability of the business plan
- c) Evidence of familiarity with the available Vending Facility
- d) Completeness of the plan

2 Scoring of each variable in this section will occur using a sliding scale based on the following:

- Score: (1) minimal knowledge- Applicant cannot discuss or answer the questions related to the business plan or has difficulty answering and/or reporting on the business plan. Presentation is not professional or organized. Presentation does not meet expectations

- Score: (2) average knowledge- Applicant answers the questions related to the business plan adequately and/or reporting on the items identified satisfactorily. Presentation meets expectations
  - Score: (3) above average knowledge- Applicant answers the questions related to the business plan above average and /or reporting of the items identified above average and gives examples. Presentation is above average
- C. Applicant History - Review, with applicant, his/her history with Randolph Sheppard, qualifications, work experience, training, and level of interest and involvement with Randolph Sheppard Program
- 1 The applicant is evaluated on the following criteria:
    - a) Review of experience and training in relation to the needs/requirements of the available Vending Facility
    - b) Performance issues/questions as evidenced and documented in the selection questions
    - c) Level of interest and involvement with Randolph Sheppard, including prior history
    - d) Review of profitability as documented in prior Vending Facility locations
  - 2 Scoring of each variable in this section will occur using a sliding scale based on the following:

- Score: (1) minimal knowledge- Applicant has minimal knowledge and has difficulty answering and /or reporting on their work history
- Score: (2) average knowledge- Applicant answers the questions related to their work history adequately and/or reporting on the items identified satisfactorily.
- Score: (3) above average knowledge- Applicant answers the questions related to their work history above average; and/or reporting on the items identified above average and by giving an example

#### IV. Final Selection

A. The final selection and vote will be based upon the following:

- 1 The review, with the applicant of his/her history with Randolph Sheppard, qualifications, work experience, training, and level of interest and involvement with the Randolph Sheppard Program
- 2 The applicant's ability to succeed in the program, taking into consideration the Vending Facility in question and the applicant's ability/fit for that specific location
- 3 The aforementioned scoring guidelines and numeric total
  - a) Displaced Managers will automatically receive 2 additional points to their overall score for vacant facilities equal to or lower than the facility they were displaced from.

b) Managers directly involved in developing a new location will automatically receive an additional 2 points to their overall score.

- 4 The overall score will be tallied (including considerations for displaced managers and managers developing a location) and a discussion held by the Selection Committee, where the best applicant will be selected, voted on, and certified by the Randolph Sheppard Program Manager in the presence of and verified by the Elected Committee Chairperson
- 5 If there is a tie score after tallying the overall scores(including considerations for displaced managers and managers developing a location), the most senior manager will receive 1 additional point. Additional consideration points for a tie situation will only be given following the overall score results thus breaking the tie.
- 6 The applicant interviews will be recorded on audiotape. These tapes and supporting documentation will be saved and kept on file for a minimum of 90 days after the selection in case of appeals

V. Review of Committee Selection and Notification of results

- A. The Randolph Sheppard Program Manager will share the outcome of the Selection Committee's vote at such time the vote is considered final. The vote is not considered final until the Randolph Sheppard Program Manager has officially reviewed each applicant's file verifying that there are no outstanding debt obligations, disciplinary actions, bankruptcies, or criminal records

that may preclude the applicant from working at the particular vending facility

- B. If there are no substantive issues the results of the selection process will be communicated in writing to all applicants.
- C. All selection committee panel members involved in the selection process shall not discuss or release any information pertaining to the selection at any time unless requested to do so by the Rehabilitation Services Administration, (RSA), or the Randolph Sheppard Program in writing.

## Section 11

### I. Procedures for Extenuating Circumstances

#### A. Resignation of Vending Manager

- 1 Managers are required to submit written notice to the Randolph Sheppard Program at least 14 calendar days in advance of the effective date of resignation from a vending facility, unless the vendor is reassigned to another vending facility. The Randolph Sheppard Program may waive this requirement in emergency situations. If a Manager fails to comply with this requirement, the Randolph Sheppard Program may terminate the Manager's license and the Manager shall be disqualified from reapplying for a license for a period of two (2) years.
- 2 A tendered resignation from a facility or from the Randolph Sheppard Program may be withdrawn without penalty up until the closing bid date for the vendor's facility.
- 3 If the withdrawal of resignation from a facility is received after the closing bid, the Manager shall be placed on the ready for assignment list at his current level of seniority.
- 4 Licensed Managers who have resigned/retired from the program for a period of five (5) years must undergo the process of becoming re-licensed through the Randolph Sheppard program should they wish to obtain a location.

#### B. Extended Illness

- 1 A Manager shall be considered to be on extended sick leave if a health condition requires the Manager to be absent from his/her facility for a period extending beyond ten (10) consecutive working days, or when the Manager's absence substantially interferes with the operation of the facility.
  - a) Documentation Requirements: The manager or the manager's representative (person designated in manager's file as the emergency contact) is responsible to notify the Randolph Sheppard Program of his/her absence due to an extended illness and to provide Randolph Sheppard Management Analyst a physician's statement verifying the existence of a continuing illness requiring an extended absence from work. The physician's statement must include a prognosis and an expected date of return to work.
  - b) Facility Operation: The Manager or Manager's representative shall be responsible for assuring the continuous operation of his/her facility consistent with the requirements of the Operating Agreement and the Permit/Contract, and notify the Randolph Sheppard Program of the arrangements made for facility operation during his/her absence.
  - c) Termination due to extended illness: Should the facility fail to be operated in accordance with the Operating Agreement and/or Permit/Contract while the Manager is on extended sick leave, the Operating Agreement shall be terminated by the Randolph Sheppard Program.



- (i) If the Manager's extended leave absence reaches 30 days, The Randolph Sheppard Program will require documentation from a physician as to the Manager's ability to perform the duties of the position. The physician's statement must include a prognosis and an expected date of return to work.
- (ii) Based upon the documentation from the physician, the Randolph Sheppard Program will make the determination as to whether to the Manager's permit should be terminated.
- (iii) If the Manager is in disagreement with the Randolph Sheppard Program's decision to terminate the Operating Agreement, the Manager must contact the RSPM within 30 days of receipt of the notice of intent to terminate the permit, and provide the Program Manager with any relevant information supporting continuation of the Operating Agreement.
- (iv) The RSMA shall discuss and develop a Plan of Action with the Manager to assure operation of the facility in a manner consistent with the Operating Agreement and permit/contract.
- (v) The terms of the Action Plan shall be monitored as outlined in Section 20 – Corrective Action/Notification and Plans

- d) Resignation of Manager on extended sick leave:  
If a Manager on extended sick leave chooses to resign from the assigned facility, the Manager shall provide a written statement to the RSMA indicating the effective date of the resignation in accordance with the Resignation Section of this manual.
  
- e) Eligibility to Participate in the Bid Process while on extended sick leave: A vendor on extended sick leave is not permitted to bid on another facility unless medical documentation is provided to the Randolph Sheppard Program verifying that the operating demands of the facility to be bid upon are consistent with the Manager's current functional limitations.

II. Death of a Manager:

A. Upon the death of a Facility Manager, the Program Manager will:

- 1 Communicate with the Manager's designated contact person as specified in the Important Information file. The facility will be operated as a "Stand No Manager" until reassigned through the bid process.
  
- 2 Stand No Manager will be operated with a satellite manager or through the bid process
  
3. An inventory will be conducted by two (2) LRS RSMA's and a representative of the Manager's estate upon the Manager's death, or the satelliting manager; and any identified overage proceeds will be reimbursed to the Manager's estate or the satelliting/interim manager.

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4. Following final inventory, the vendor's heir and/or executor shall be notified of any funds owed to the Randolph Sheppard Program or of any profits owed to the estate. Final payments shall be made, as appropriate, within 30 days.

III. Termination of License

A. The Manager's license may be terminated in the following situations:

- 1 Abandonment of a Vending Facility: If the Manager does not meet 709 criteria, this is considered abandonment of a vending facility. Abandonment of a facility is defined as a Manager's relinquishment of responsibility to operate his/her vending facility in accordance with the Operating Agreement and Permit by failing to assure the continued operation of the facility. The manager is subject to temporary removal from the facility under emergency conditions and shall be provided with a written notice of termination. Written notice shall include the reasons for temporary removal and the vendor's appeal rights.
- 2 Defrauding any State or Federal agency, including LRS.
- 3 Possession of Drugs or Alcohol in Vending Facility
- 4 Operating the Vending Facility in a Manner that endangers the State Licensing Agency's investments in the facility; for example, operating a vending facility in such a manner as to be banished from the building in which the vending facility is located.
- 5 Failure to comply or follow through with corrective action plans as determined by the SLA.

Section 12

I. RSMA Services –

II. The RSMA will consult with the respected Elected Committee Representative on district issues as appropriate. RSMAs are required to assist Licensed Managers in their district to meet Randolph Sheppard Program requirements through review and consultation on:

- A. compliance with applicable laws and program regulations;
- B. hiring employees in accordance with rules and regulations;
- C. compliance with all conditions in the Licensed Manager's license and permit;
- D. assuring that merchandise is:
  - 1 sold in accordance with the grantor's agreement;
  - 2 neither purchased or sold on credit; and
  - 3 of high quality, adequately stocked, and properly displayed;
- E. standards for employee personal appearance and hygiene;
- F. quality customer service;
- G. maintenance of sanitation and safety standards;
- H. proper maintenance of equipment;

- I. communications and working relationships between the Licensed Manager and customers, suppliers, employees, grantor, and the general public;
  - J. SLA and other agency requirements for record keeping; and
  - K. Licensed Manager performance evaluations.
  - L. The RSMA will follow up on repair and maintenance problems encountered with vending facility equipment.
- II. RSMA Visits
- A. Visits to the facility by the RSMA shall be made as often as necessary or at least once a month to ensure the continued success of the facility. RSMAs are not required to visit every stop along a vending route each month.
    - 1 Licensed Managers whose performance indicates a need for assistance will naturally be visited more frequently than those Managers who are managing their facilities well.
    - 2 RSMA must place extra emphasis on helping Licensed Managers where business shows marginal performance.
    - 3 The length of the consultant visit shall be of adequate duration to determine any deficiencies which may exist in the operation of the facility and to advise the Manager of such deficiencies and of any operational changes which the RSMA considers of benefit.
    - 4 During each visit, the RSMA will make observations and document the findings in the following areas:

- a) Quantity and Variety of merchandise
- b) Appearance of displays and machines
- c) Appearance of Manager and employees
- d) General cleanliness and sanitation
- e) All equipment is functioning properly
- f) Ensure that all required postings (license, permit, information regarding Worker's Compensation and EEOC requirements) are available for public viewing.

B. Scope of RSMA Visits:

- 1 The RSMA may inquire into any aspect relevant to the facility.
- 2 The RSMA may inventory or audit the facility provided that the Licensed Manager is given at least one prior day notice.
- 3 The RSMA will not inquire into the personal problems or affairs of the Vending Facility Manager, unless these problems or affairs seem to be adversely affecting the operation of the facility.
- 4 The facility shall be inspected in the following areas:
  - a) Food;
  - b) Food Protection;
  - c) Personnel;
  - d) Food Equipment and Utensils;

- e) Other Operations;
- f) Floors, Walls, Ceilings;
- g) Garbage and Refuse Disposal;
- h) Administration;
- i) Vending Merchandise;
- j) Vending – Machine Appearance; and;
- k) Vending – Machine Interior.
- l) Financial and Accountability Reports.

C. Results of RSMA visits: The RSMA will discuss with the Licensed Manager:

- 1 Suggestions which will aid the Manager in the successful and efficient operation of the vending facility.
- 2 Any disagreements that may exist between the Licensed Manager, suppliers, assistants, official having charge of the premises, customers or the general public.
- 3 Violations of the SLA's rules and regulations and/or policies and procedures.
- 4 Any unsatisfactory conditions relating to any aspect of the vending facility and recommendations for improvement.
- 5 Follow-up action taken on deficiencies noted on previous visits. Each time the RSMA visits a facility, the RSMA will make a notation on the 735 Monthly



Inspection Form in the facility file summarizing the findings and areas of discussion.

- 6 Upon completion of the monthly inspection, a copy will be provided to the Licensed Manager. This will be maintained in the facility file in the local office.
- D. Recommendations: The findings will be discussed and recommendations made to correct any deficiencies observed.
- 1 The Licensed Manager will then have 15 working days to correct minor deficiencies. The RSMA will conduct a follow-up inspection to ensure the deficiencies have been corrected.
  - 2 Major infractions such as those marked critical by the Office of Public Health must be corrected immediately. The RSMA will conduct a follow-up inspection within three (3) working days to ensure the deficiencies have been corrected.  
.....
  - 3 A report will be forwarded to the Randolph Sheppard Program Manager on Managers who fail or neglect to initiate corrective action and the Manager may be placed on probation.
  - 4 The selection committee may consider information from monthly inspections when filling vending facility vacancies.

### III. Health Department Visits

- A. It is recognized that the local Health Department will also be conducting inspections of vending facilities. Although these inspections may appear to be similar in nature, they are different in several significant ways. In

addition to things that may endanger the health of the facility customers, the RSMA is looking at the overall appearance of the facility and the image presented to the public.

- B. information from the health department inspections, such as infractions, may be considered by the selection committee.

IV. Disposition of Complaints:

- A. Written complaints received by the SLA against a Licensed Manager will be immediately communicated to the Randolph Sheppard Program Manager. ; and
- B. The RSMA and/or RSPM will investigate the complaint to determine its validity.
  - 1 If the investigation reveals no basis for the complaint, the Manager's record will be purged.
  - 2 If the investigation of the RSMA or RSPM reveals that the complaint is legitimate, the complaint and the Manager's response will become a part of the Manager's permanent record.
  - 3 The Licensed Manager and RSMA will jointly develop solutions to all valid complaints.
  - 4 Implementation of the solution will be the responsibility of the Licensed Manager.
  - 5 The Licensed Manager may elect to file a written response provided it is received by the SLA within seven (7) calendar days from the date the Licensed Manager was furnished with a copy of the complaint.

V. Annual Facility Plan –

- A. It is the responsibility of the RSMA to evaluate the performance of Licensed Managers in his/her region and to assist each Manager in maximizing his/her vocational potential. The RSMA/Consultant will assess each Licensed Manager's skills, abilities and performance using all available information including:
  - 1 personal observations,
  - 2 feedback from patrons and property management,
  - 3 review of facility financial records, etc.
  
- B. The RSMA and Licensed Manager will jointly develop a Facility Plan of Action a minimum of once each year. This plan will describe:
  - 1 actions needed to improve the overall operation of the vending facility.
  - 2 specify what actions are completed by the Licensed Manager and by the RSMA.
  - 3 time frames for completion.
  
- C. The RSMA submits the Annual Facility Plan to the Randolph Sheppard Program Manager by July 1<sup>st</sup> of each year.

## Section 13

## I. Vending Facility Equipment and Fixtures:

The SLA will provide each vending facility with fixtures and equipment in such quantity and quality so as to give reasonable assurance of successful operation by the Licensed Manager. The SLA will utilize the following procedures to facilitate this process:

- A. Ownership - All state fixtures, furnishings, and equipment within the facility shall at all times remain the property of the State of Louisiana; and shall physically remain with the facility of purchase. Their use by the facility manager shall be as a licensee ONLY (not for personal use). In the event of a transfer of the facility Manager, all fixtures, furnishings and equipment shall remain with the facility and can not be transferred with the Manager. The SLA shall have the sole authority to direct, control, transfer, and dispose of such fixtures, furnishings, and equipment as it determines to be appropriate and necessary. (L.A.C. Title 67 Part 7 Chapter 5 Section 519 A)
- B. Modifications - No modifications or alterations shall be made to state-owned fixtures, furnishings, and equipment by any person, firm, or entity without the express prior written approval of the SLA, which shall be granted or not granted solely at the discretion of the SLA.
- C. Transfer of fixtures, furnishings, equipment, and inventory: When a Manager is assigned to an existing vending facility, the responsibility for the fixtures, furnishings, and equipment of that facility, as well as its inventory, shall be transferred to the incoming Manager.

The RSPM shall develop and implement procedures for affecting such transfers to ensure that both the incoming and outgoing Managers have full knowledge of the nature and condition of the items being transferred.

## II. Equipment for New Facilities

- A. Conduct a Survey. When a new facility becomes available for assignment, SLA staff and representatives from the Elected Committee shall conduct a survey of the site to determine the fixtures, furnishings, and equipment required to allow the facility to operate in accordance with the potential for the facility. When such facility is an existing one, the survey shall consider the need for replacement or repair of fixtures, furnishings, and equipment.
- B. Develop a Facility Plan - Staff shall prepare a detailed schedule of the requirements for fixtures, furnishings, and equipment for the facility, including specifications for each item required and a site plan/drawing of the facility depicting the placement of the fixtures, furnishings, and equipment within the facility.
- C. Acquisition, placement, and installation - When satisfied as to the fixtures, furnishings, and equipment required for the facility, SLA staff shall cause the necessary fixtures, furnishings, and equipment to be purchased or otherwise acquired and placed and/or installed in or upon the facility in accordance with the approved plans.

## III. Maintenance of Equipment

- A. Upkeep and maintenance - The SLA shall be responsible for all necessary repairs of any of the state-

owned fixtures, furnishings, and equipment located within the facility except for repairs necessitated by the negligence, abuse, or misuse of the fixtures, furnishings, or equipment by the Manager or the Manager's employees. The cost of repairs necessitated by negligence, abuse, or misuse (as evidenced by repair invoice) shall be the sole responsibility of the Manager. Failure to make such repairs shall result in administrative action pursuant to these rules.

3. Additions, Deletions, or Modifications to Equipment. The Licensed Manager will make no additions, deletions or modifications to the Business Enterprise and its operation, in the form of equipment, fixtures or facilities, without first obtaining written authorization from the SLA. (*L.A.C. Title 67 Part 7 Chapter 5 Section 519 B*)

4. Maintenance and Replacement of Business Enterprise Equipment. The SLA shall maintain, or cause to be maintained, all Business Enterprise equipment in good repair and in an attractive condition and shall replace or cause to be replaced worn-out and obsolete equipment as required to ensure the continued successful operation of the Business Enterprise. (34 CFR 395.10) (*L.A.C. Title 67 Part 7 Chapter 5 Section 519 C*)

B. The Randolph Shepherd Program Manager (RSPM) shall establish and implement procedures for the timely necessary repairs and for the payment for such services. There shall be included in these procedures specific procedures for initiating repairs by the Manager and a list of approved vendors for repairs, which shall be provided to each manager as published and as revised from time to time.

### C. Administrative Procedures

- 1 The Manager assigned to a facility shall be provided with manuals, instructions, and guides in an accessible format to state-owned fixtures, furnishings, and equipment within the facility.
- 2 It shall be the responsibility of the Manager to keep SLA fixtures, furnishings, and equipment in a clean and sanitary condition and to perform the regular maintenance required or recommended by the manufacturers or vendors of the fixtures, furnishings, and equipment.
- 3 After completing routine operational troubleshooting on a piece of equipment that is not working, such as making sure circuit breakers are not tripped, the on/off switch is in correct position, the unit is plugged in properly, the condenser coils are clean, the reset button is set, and moving parts are free of obstructions, managers may initiate the following procedures:
  - 4 The manager notifies the RSMA of the need for repairs and/or purchases. The RSMA facilitates the repair and/ or purchase of all state owned fixtures, furnishings and equipment with approval from the RSPM.
  - 5 For facilities classified as Levels 1 & 2, the SLA shall be responsible for all repairs and purchases. In the case of facilities classified as Levels 3, 4, & 5, the SLA will pay for all purchases and repairs in excess of \$50.00. All items under \$50.00 will be the responsibility of the Vending Facility Manager.

- 6 To streamline the repair of state property provided to Vending Facility Managers in an EMERGENCY (Equipment inoperable, flood or similar event that threatens to interrupt business or cause loss of inventory), Managers may contact service companies approved by the SLA to provide needed repairs directly to STATE-OWNED EQUIPMENT; in emergency situations, the service company shall invoice the SLA for payment.
- 7 The RSMA determines whether a state purchase order is needed or if the item needs to be replaced. If a purchase order is required, the service company cannot proceed with the repair until the Randolph Sheppard Program Manager approves the purchase and a purchase order number has been established in accordance with State of Louisiana purchasing guidelines.
- 8 Each Vending Facility Manager shall be provided with a current list of service companies approved by SLA. Under no circumstances is a Manager authorized to have repairs made by anyone other than approved vendors unless specific authority to do so has been given to the Manager in writing by the RSPM.



Section 14

I. Inventory and Supplies

- A. The SLA shall provide for initial inventory of merchandise for resale and for operating a business enterprise by a Licensed Manager.
- B. The initial inventory of merchandise and supplies shall be sufficient, as projected by the SLA, and/or elected committee representative, to provide the manager with merchandise and supplies for a two-week period.
- C. The Manager shall maintain an inventory of merchandise and supplies in the same quantity as the initial merchandise and supplies transferred to the Manager upon assignment to the facility.
- D. If the SLA determines that changed circumstances require a different amount of merchandise and supplies, the SLA shall communicate in writing to the Manager the new amount of merchandise and supplies. A copy of the new inventory statement will be provided to the Vending Facility Manager for his signature.
- E. If a new amount of merchandise and supplies is necessary to provide for the satisfactory operation of the facility, the new amount of inventory must be maintained by the Manager.
  - 5. If the new inventory amount is higher the SLA will purchase the difference.
  - 6. If the new inventory amount is lower the manager may pay on the difference until the “sufficient” inventory level is reached.

- F. Managers assigned to any facility other than their initial assignment shall acquire the inventory as determined by SLA to be sufficient to satisfactorily operate the facility.
- G. To effectively expedite the changeover in facilities, when a facility is already stocked with inventory, the existing stock shall become part of the required inventory stock level of the incoming Manager.
- H. If the outgoing inventory is below the initial inventory then the outgoing manager would owe the difference to the SLA. In the case of an overage in inventory, the SLA owes the outgoing manager the difference.
- I. It is the Manager's responsibility to keep a list of the inventories to include receipts and invoices. A Manager cannot get reimbursed without receipts that are within a 6-month period.
- J. When a Licensed Manager is assigned to an existing BEP facility, the responsibility for the inventory shall be transferred to the incoming manager.
- K. Both the incoming and outgoing Managers are to meet and perform the ending inventory. The RSMA will verify their numbers but is not part of the actual inventory counting process. Managers should keep an ongoing list of their inventory in order to facilitate this activity in a timely and orderly manner.
- L. Merchandise that is at or nearing expiration date should not be counted as inventory.
- M. Monies in the "coin mechs" of the vending and drink machines should be counted and included as inventory.

- N. Managers who are “satelliting” another location in addition to their primary location MUST maintain TWO sets of records/reports, i.e., one set for the primary location and another set for the satellite location in an effort to keep accurate counts of inventory and income at each location.

Section 15

I. OPERATIONS STANDARDS FOR LICENSED MANAGERS

A. The Licensed Manager is required to operate in accordance with the established rules and regulations of the BEP, within the terms of the licensed manager's agreement with the SLA and the grantor's agreement, contract, or permit. The Licensed Manager may not act as an agent of the SLA. Specifically, the Licensed Manager will:

1. work cooperatively with authorized representatives of the SLA in connection with their official responsibilities;
2. operate the business enterprise in accordance with all applicable health laws and regulations, safety regulations and other federal, state, parish, and municipality laws and regulations applicable to the business enterprise;
3. dress and maintain a level of personal hygiene which will convey a positive public image;
4. supervise employees in a manner that promotes quality customer service;
5. operate the business enterprise on a cash basis unless otherwise authorized by the SLA in writing;
6. arrange for continued operation of the enterprise in the case of planned and unplanned absences. Manager must notify the RSMA of absence;

7. maintain daily records of the following in daily chronological order: invoices and receipts, z tape receipts, and cash on hand;
8. maintain and display current licenses and permits, including BEP license, in the business enterprise;
9. complete and submit all required federal and state reports and payments for each business enterprise;
10. comply with all regulations and laws governing the possession and/or use of firearms, weapons, alcohol and other drugs; and
11. maintain appropriate professional relationships with suppliers, customers, and building officials.
12. All Vending Facility Managers and Vending Facility Employees are expected to treat all individuals with whom they interact with dignity, respect, and civility. Vending Facility Managers and Employees are prohibited from bringing weapons into the workplace.
  - (a) The use of illegal drugs or alcohol during working hours is prohibited. An R.S. Vending Facility Manager/ Employee found under the influence of any such substance shall be subject to immediate suspension and/or dismissal.
  - (b) The Vending Facility Manager is required to notify the RSPM within five (5) days of any arrest or conviction of a criminal offense, drug or drug-related offense, which occurs on or off duty, including DWI arrest.
  - (c) Vending Facility Employees are required to notify their Vending Facility Manager within five (5) days of any arrest or conviction of a

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criminal offense, drug or drug-related offense, which occurs on or off duty, including DWI arrest. The Vending Facility Manager will then notify the RSPM or RSMA.

- B. Relationships with Suppliers/Purveyors: The Licensed Manager is free to choose the suppliers from whom he/she is to make purchases, provided, however, that such suppliers are established and reputable.

C. Relationships with Customers: To serve the best interest of the public, the licensed manager and his/her employees must:

1. provide prompt, cheerful and courteous service to all customers and accommodate, within reasonable limits, such other persons who may come to the business enterprise requesting change, information, or other services and
2. operate on a cash basis.

D. Relationships with Building Officials:

1. The Licensed Manager must comply with all reasonable requests concerning the operation of a business enterprise that may be made by officials of the building facility that do not conflict with the agreement and the rules and regulations issued by the SLA.
2. If differences should arise between the Licensed Manager and building facility contact, this should be brought to the attention of the RSMA for appropriate action.

Section 16

I. FINANCIAL REPORTING/DOCUMENTATION  
REQUIREMENTS OF BEP MANAGERS:

A. Each Licensed Manager must:

- 1 file monthly reporting forms (bi-weekly first and last reports - Form #714, and other expenses report – Form #715), no later than the 10<sup>th</sup> day of each month for the proceeding month. These reports will be completed on forms furnished by the Agency and will summarize the financial activities of the facility for the month indicated;
- 2 conduct and submit a year-end Inventory form #711 for the preceding year's inventory totals no later than January 10<sup>th</sup> each year.
- 3 maintain all monthly facility reports (Form #714, #715, & #711 for a period of six (6) calendar years. This includes all invoices, receipts for purchases of merchandise and other expenses. All records must be kept in daily chronological order
  - a) Managers are expected to comply with record retention requirements of other government agencies such as the Internal Revenue Service.
  - b) documentation supporting the information provided on the reports must be made available, upon request, to the RSMA for review.
- 4 maintain documentation in each employee's personnel file verifying that all employee taxes such as the Federal Employment Tax (FUTA) and the



State Unemployment Tax (SUTA), FICA, Medicare, and Worker's Compensation have been paid and that payments are up-to-date;

- a) Taxes must be paid on all employees, including family members.
- b) Employees may be paid in cash. But it is important to remember that payroll taxes must be paid for ALL employees, which includes those employees who are paid in cash.
- c) Children under 18 are not subject to any taxes. Individuals who are 18-21 years-old are not subject to SUTA or FUTA, but are subject to all other taxes. Once these individuals become 21 years old, they are subject to ALL taxes. Spouses and parents who are on the payroll of a licensed vending facility manager are subject to all taxes except FUTA and SUTA.

- 5 provide evidence of timely remittance of worker's compensation taxes
- 6 maintain and post in a visible location licenses/memberships required by law, i.e., Worker's Compensation, equal opportunity, non-discrimination, and unemployment insurance
- 7 Managers must take appropriate actions to correct deficiencies noted on vending facility audits or reviews within 15 business days.
- 8 Managers must provide the RSMA with the following information and must notify the RSMA of any

changes to any item no later than 10 business days after a change occurs:

- a) Name
- b) the vending facility telephone number
- c) an address to which Randolph Sheppard correspondence is to be sent
- d) home phone number
- e) cell phone number
- f) emergency contact name and phone number
- g) the manager's preferred reading format.
- h) Any changes to the above information must be immediately reported to the RSMA.

## Section 17

- I. The Elected Committee of Managers
  - A. Authority for Establishing an Elected Committee of Licensed Managers is found in Section 107-B1 of Chapter 6A of Title 20 U.S., commonly referred to as the Randolph-Sheppard Act.
  - B. The Randolph Sheppard policy manual provides guidance in approaching the degree of participation by the ECM.
    - 1 Active participation means a process of good faith negotiations involving the ECM and the SLA. The committee must be given the opportunity to have meaningful input into the decision-making process in the formulation of program policies which affect Licensed Managers.
    - 2 The SLA is charged with the ultimate responsibility for the administration and operation of all aspects of the Business Enterprise Program.
  - C. Functions of the Elected Committee of Licensed Managers include:
    - 1 actively participate with the SLA in the major administrative, policy, and program development decisions affecting the overall administration of the Business Enterprise Program;
    - 2 to receive and transmit to the SLA grievances at the request of Licensed Managers and to serve as advocates for such managers in connection with such grievances;

- 3 to actively participate with the SLA in the development and administration of a state system for the transfer and promotion of Licensed Managers;
  - 4 to participate with the SLA in developing training and retraining programs for Licensed Managers;
  - 5 to sponsor, with the assistance of the SLA, meetings and instructional conferences for Licensed Managers;
  - 6 to participate in setting out the method of determining the charge for each of the purposes listed below:
    - a) maintenance and replacement of equipment;
    - b) the purchase of new equipment;
    - c) management services;
    - d) assuring a fair minimum of return to Licensed Managers; or
    - e) the establishment and maintenance of retirement or pension funds, health insurance contributions, and provisions for paid sick leave and vacation time, it is so determined by a majority vote of Licensed Managers, after the SLA provides to each Licensed Manager information on all matters relevant to such proposed purposes. [34 CFR 395.9(b) and (c)]
- D. The ECM will be composed of Licensed Managers in the program based on such factors as geography and business enterprise type with a goal of providing for proportional representation of Licensed Managers on federal property and other property. There will be an

executive committee with their duties, terms of office and operational procedures specified in the by-laws of the ECM that follow:

II. The Louisiana Blind Vendor's Elected Committee;  
Constitution & By-Laws

III. Name of Organization

a) The name of this organization is the Louisiana Blind Vendor's Elected Committee. The official abbreviated name of the organization is LBVEC.

IV. Purpose

a) The Louisiana Blind Vendor's Elected Committee (LBVEC) has been established by the enactment of the amendments of the Randolph-Sheppard Law of 1974 for the purpose of:

- A. serving with Louisiana Rehabilitation Services in decision and policy making relative to the administration of the Vending Facility Program in the State of Louisiana.
- B. reviewing at least twice annually the effectiveness of the Vending Facility Program as compared to previous year, or years.
- C. meeting quarterly annually; the committee shall decide the location and date of the meetings

V. Composition

A. The Louisiana Blind Vendors Elected Committee (LBVEC) shall include an Elected Committee Member (ECM) representative from: Alexandria/Lake Charles (1 ECM); Baton Rouge (2 ECM), one from District III and one

from District IV; Lafayette (1 ECM); New Orleans (2 ECM), one ECM from District I and one from District II; Shreveport/Monroe (1 ECM) and one (1 ECM) additional member from the district from which the chairman is elected. Representatives shall be elected from each geographical area as follows:

- Alexandria/Lake Charles District VI consists of the following parishes: Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn.
- Baton Rouge District III consists of the following parishes: Tangipahoa, Livingston, Ascension, Pointe Coupe, West Baton Rouge, Iberville and all areas South of Florida Boulevard in the city of Baton Rouge.
- Baton Rouge District IV consists of the following parishes: West Feliciana, East Feliciana, St. Helena, Washington and including all areas North of Florida Boulevard in the city of Baton Rouge.
- Lafayette District V consists of the following parishes: Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary and Vermillion.
- New Orleans District I consist of the following parishes: Orleans with the exception of the Central Business District (CBD), the boundaries are Canal Street, South Claiborne Avenue, Pontchartrain Expressway and the Mississippi River; St. Tammany, St. Bernard, Plaquemine, East Bank of Jefferson and St. John.
- New Orleans District II consists of the following parishes: Orleans including the Central Business District (CBD), the boundaries are Canal Street, South Claiborne Avenue, Pontchartrain Expressway and the

Mississippi River; St. Charles, Lafourche, Terrebonne, Assumption, St. James, West Bank of Jefferson.

- Shreveport/Monroe VII consists of the following parishes: Bienville, Bossier, Caddo, Claiborne, Desoto, Lincoln, Natchitoches, Red River, Sabine, Webster, Caldwell, East Carroll, West Carroll, Franklin, Jackson, Madison, Morehouse, Ouachita, Richland, Tensas and Union.

B. The ECM representatives shall be dedicated to the delivery of high quality, purposefully planned services to the Vending Facility Program of Louisiana. The LBVEC shall also serve as the advisory committee for The Louisiana Blind Vendors Trust Fund.

#### VI. Membership

VII. The Louisiana Blind Vendor's Elected Committee (LBVEC) shall consist of two representatives from the New Orleans area and two from the Baton Rouge area, one representative from each of the following areas Alexandria: Lafayette, Shreveport and one additional representative from the district from which the chairman is elected.

A. Ex-Officio Membership is as follows:

- 1 Secretary of the Department of Social Services
- 2 Director of Louisiana Rehabilitation Services
- 3 Executive Director of Blind Services
- 4 Randolph-Sheppard Program Manager
- 5 Randolph-Sheppard Management Analysts

#### VIII. Tenure

A. All committee members shall be elected for a two-year term, from July 1<sup>st</sup> to June 30<sup>th</sup>. Elections to be held in even numbered years. In the event of a contested election, or an undo delay in the election process, the members of the elected committee will serve until replaced.

B. VOTING

- 1 Acting Licensed Managers will vote in the area in which they work.
- 2 If there is no nominee from an area, the managers in that area will be asked by the Agency if they are willing to run.
- 3 Should the election be completed and an area remains unrepresented, the chairperson will select a representative. The selection will come first from the area needing representation. If managers from that area remain unwilling to serve, the Chairperson will select a representative at large. Representative selected by the Chairperson must be confirmed by vote of the Committee.
- 4 Past Officers will conduct the first meeting following the election of new members with the last order of business being the installation of new officers.
- 5 Prior to the next quarterly meeting, the agency will conduct an Orientation Meeting for all elected officers.

IX. Termination



A. Termination or vacancies for any reason shall be filled by election from said area within thirty days of the date a vacancy occurs.

A. Expulsion of a committee Member shall be automatic in the event of substantial failure to participate as a member. The term "failure to participate" means failure or refusal to attend Elected Committee Meetings of the Elected Committee or actively serve as an assigned member of a Sub-committee. Any member missing three consecutive meetings or a total of four meetings in a two-year period shall be expelled.

#### X. Voting

A. Member shall carry an equal vote; ex-officio members shall be non-voting members, except in the case of a tie the chair/member at large shall vote. Voting shall follow the majority rule method. A quorum shall be established by the presence of a majority of voting members.

#### XI. Officers

A. The Committee shall have a Chairperson, a Vice-Chairperson, Secretary and Treasurer. The Chairpersons duties shall be to call all meetings, appoint sub-committee chairs and present committee recommendations to Louisiana Rehabilitation Services. The Vice-Chairperson shall assist the Chair and assume all duties of the Chairs responsibility in their absence and any other assigned duties. The Secretary shall be responsible for seeing that minutes are maintained for all committee meetings and received thirty days after each meeting. The Treasurers responsibility shall be to oversee and monitor the Blind Vendors Trust Fund.

- A. The Chairperson, Vice-Chairperson, Secretary, and Treasurer shall be elected by a majority vote of the elected committee members. The Officers shall be elected to serve a term of two years with no limitation on the number of times an individual may succeed their self. The Chairperson shall serve as the member at large. Once the Chairperson is elected, a new representative shall be elected from that area within thirty days.

## XII. Agenda

- A. The agenda shall incorporate all matters pertaining to the effectiveness of the Vending Facility Program.
- B. The agenda shall be prepared by the Chairperson with the cooperation of the Randolph-Sheppard Program Manager, from issues presented to the Chairperson, individual committee members or officials of Louisiana Rehabilitation Services.
- C. Each item or issue presented for consideration by the committee shall be accompanied by adequate background information.
- D. The meeting call and informational material and proposed agenda shall be forwarded to committee members two weeks in advance of scheduled or called meetings.
- E. Only agenda items will be considered unless non-agenda items are proposed by a majority of members present and voting.

## XIII. Committee Reports

- A. The Randolph-Sheppard Program Manager shall be delegated to represent Louisiana Rehabilitation Services in all functions of the Committee, and conversely shall present the actions of the Committee to the Director of Louisiana Rehabilitation Services. The agency shall respond to all motions submitted in writing by the committee within thirty days.
- B. The Agency staff will support the Committee as follows:
  - 1 Research of and the final preparation of documents generated by the Committee.
  - 2 Preparation of Committee actions for presentations to the Director of Louisiana Rehabilitation Services on the Request for Response Form. The agency shall respond within thirty days.

#### XIV. Amendments

A. The Constitution & By-laws may be amended by a two-third-majority vote of voting members present at a meeting. The Chairperson shall provide a copy of all proposed amendments to each Committee member at least two weeks prior to voting on said amendments.

- A. VOTING PROCEDURES: In accordance with the Business Program Manual, the SLA shall provide for the biennial election of a State committee of Licensed Managers which shall be fully representative of all Licensed Managers in the state program. (34 CFR 395.14) The voting procedures are as follows:
  - 1 On the fourth Saturday of the first month of the first quarter of the even years, the Randolph Sheppard Program Manager will mail notices to all Licensed Managers in the state requesting nominations for the

positions that will be vacated by June 30<sup>th</sup>. This notice will contain the names of all Licensed Managers who are eligible to fill positions, deadline dates for nominations (a minimum of 3 weeks, but specifications included in notice) and any additional mailing materials required to complete the nomination process.

- 2 Upon completion of the nomination process as determined by the deadline identified in #1 above, the Randolph Sheppard Program Manager will mail ballots to all Licensed Managers to facilitate the voting process. The second notification will provide Managers with all mailing materials and deadline information required to timely complete the voting process.
- 3 To ensure that the newly elected committee is ready to assume their positions by July 1<sup>st</sup>, the ballots will be counted and the results announced no later than May 15th.
- 4 Prior to July 1<sup>st</sup> each year, the agency will conduct an Orientation Meeting for all elected officers.
- 5 Termination or vacancies for any reason shall be filled by election from said area within thirty days of the date a vacancy occurs.
- 6 It is understood that the State Licensing Agency bears final authority and responsibility for the administration and operation of the Randolph Sheppard Program, including the assurance of continuing, active participation with the committee.

## Section 18

### I. Blind Vendors Trust Fund

A. Overview of Purpose: The Blind Vending Trust Fund may be used for the following purposes as stated in Section 107b of the Randolph Sheppard Act:

- 1 Maintenance and Replacement of equipment
- 2 Purchase of new equipment
- 3 Management Services
- 4 Assuring a fair minimum return to operators of vending facilities
- 5 Retirement or pension funds
- 6 Health insurance contributions
- 7 Paid sick leave
- 8 Vacation leave.

B. Health Insurance Contributions (effective July, 2009/ Stipend Program)

The purpose of the health insurance stipend procedure is to provide Licensed Managers with a yearly stipend award to allow them to independently purchase health insurance policies and other long-term health care products.

- 1 To be eligible for this stipend, managers must be:
  - a) a Licensed Manager for one year.
  - b) current with all agreed upon payment arrangements and not have any past due outstanding obligations owed to LRS.
- 2 Program participants are required to execute and submit a waiver annually which asserts the following:
  - a) The stipend will be used for the purchase of health insurance, riders, and other long-term care insurance products.
  - b) LRS will be held harmless and absolved of any liability should a Manager fail to purchase said products after receipt of the funds
  - c) The Manager shall retain verifying documents for tax purposes for a minimum of five (5) years.
  - d) The Managers shall comply with all federal or state audit disclosure requests.
  - e) Should the Manager have health insurance expenses, which exceed the annual stipend, the Manager may submit a request for a supplemental stipend. This request must be in writing to the RSMA along with supporting documentation. The RSMA will then forward the request to the Program Manager for review. LRS retains the right to deny the request should it be deemed excessive and may recommend insurance alternatives.

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- f) LRS does not reimburse Managers for “Cancer Policies.” Supplemental stipends will not be authorized for “Cancer Policies.”

Section 19

- I. Administrative Action Procedures (Progressive Discipline)
  - A. The RSPM shall make the decision as to what administrative action to take based upon the seriousness of the violation and the damage to BEP. The following progression of administrative action will be followed:
    - 1 Notice
    - 2 Letter of Reprimand
    - 3 Probation and plan of corrective action
    - 4 Suspension as outlined below
  - B. Upon receipt of information which indicates that administrative action may be appropriate, the LRS/RSPM shall take the following actions prior to determining the level of administrative action:
    - 1 The RSMA shall notify the licensee in writing of the allegations and reasons that administrative action is being considered. The notice shall be sent to the licensee's home address via certified mail.
    - 2 The licensee shall have five (5) business days to respond, in writing, to the notice. The response shall be made to the program personnel designated in the notice. After receiving the licensee's response, the RSPM shall decide what administrative action, if any is appropriate. If no response is received within five (5) business days from the manager, the RSPM shall decide upon completion of the investigation what



administrative action, if any is to be taken without the licensee's response.

- 3 If a decision is made to issue a written reprimand, the written reprimand will be accompanied by:
  - a) a brief summary of the evidence justifying the reprimand
  - b) a corrective action plan.
  - c) All reprimands shall contain notice of the licensee's right to appeal the reprimand and statement that failure to correct the violation may result in further disciplinary action.
- 4 If a decision is made to place a licensee on probation, the RSPM shall notify the licensee with a letter of probation via certified mail that contains the following:
  - a) the specific reasons for probation.
  - b) the plan of action
  - c) the consequences of failure to take remedial action within the prescribed time frame; and
  - d) notice of the licensee's right to appeal the probation and statement that failure to correct the violation may result in further disciplinary action
- 5 Upon satisfactory completion of the remedial action outlined in the plan of action and completion of required probationary time frame, the licensee shall be removed from probation.

- 6 Failure of the licensee to complete remedial requirements within the prescribed time frame shall result in one or more of the following actions:
  - a) required training
  - b) extension of probation
  - c) restrictions on applying for another facility
  - d) cancellation of permit
  - e) termination of license
  
- 7 If after the manager has had an opportunity to respond, a decision is made that sufficient grounds exist to remove the manager from a facility, the RSMA or RSPM shall notify the manager in writing by hand delivery, that the manager's assignment to the BEP facility has been terminated and the manager must vacate the facility. The removal letter shall contain the following information:
  - a) specific reasons for removal from the facility
  - b) plan of action
  - c) requirements for obtaining reassignment and
  - d) notice of the manager's right to appeal
  
- 8 If, after the licensee has had an opportunity to respond, a decision is made that sufficient grounds exist to revoke the license, the RSPM shall notify the manager in writing by hand delivery or certified U.S. Mail, return receipt requested, that the RSPM has decided that sufficient cause exists to revoke the licensee's license. The Manager shall be instructed

to vacate the facility if the licensee has not already done so. The termination letter shall contain the following information:

- a) specific reasons for termination
- b) actions required by the licensee, if any
- c) procedures for applying for any other LRS/VR services for which the person may be eligible; and
- d) notice of the licensee's rights under the Randolph-Sheppard Act

9 During the license termination process, the Manager shall not be eligible for assignment to any other BEP facility.

- C. The provision of paragraph (2) of this subsection notwithstanding, pending a determination with respect to administrative action, a manager may be removed from a facility if the LRS/RSPM considers such removal in the best interest of the BEP and efforts to correct the deficiencies have been unsuccessful.
- D. Due to the measure of seriousness in some situations, one or more of the above step(s) may be by-passed and the Manager's license and/or permit may be immediately suspended; for example in a situation where a Manager may be using drugs or alcohol in the workplace.

Section 20

- I. CORRECTIVE ACTION/NOTIFICATION AND PLAN
  - A. Correction Action: A plan of action is used to document and give direction to Vending Facility Managers to successfully remediate any identified facility infractions.
    - 1 Corrective Action Notifications may be used to document either major or minor deficiencies, or on-going problems at a facility location.
  - B. Notification of the need for corrective action may be submitted to the Licensed Vending Facility Manager by the Randolph Sheppard Program Manager (RSPM) or the Randolph Sheppard Management Analyst (RSMA), depending upon the severity of the infraction.
  - C. Major Infractions: It shall be the Licensed Manager's responsibility to immediately contact the RSMA to initiate a corrective action plan and begin correcting the deficiencies.
  - D. Minor Infractions: It shall be the Licensed Manager's responsibility to meet with his/her RSMA within 15 business days of receipt of notification to develop a plan of corrective action to address the concerns or deficiencies.
  - E. A written plan of action shall be agreed upon and signed by the Licensed Manager and the RSMA or RSPM. A copy of the corrective action plan shall be provided to the Licensed Manager and a copy maintained in the Manager's personnel file.
  - F. Immediate efforts must be made by the Licensed Vending Facility Manager to follow the corrective action

plan to resolve problem areas, in order to avoid termination of his/her permit and/or license.

- G. When the problem(s) are satisfactorily resolved, the Manager shall be notified in writing. The RSMA may recommend continued monitoring to ensure that problems do not recur. The schedule and findings of continued monitoring will be documented for the Manager's personnel file.
- H. The Manager may not be eligible for reassignment to another facility until problems identified in the corrective action plan are satisfactorily resolved.
- I. A corrective action plan may coincide with a probationary period. A Manager may be placed on probation while corrective actions are being taken.
- J. If a Vending Facility manager's response to the Corrective Action Plan was unsatisfactory, insufficient, inconsistent, or entirely lacking within the time period allowed/specified, the R. S. Program Manager shall consider relevant factors affecting the Licensed Manager's performance and shall recommend one of the following Disciplinary actions:
  - 1 placement of the Licensed Manager on probation
  - 2 suspension or termination of the Licensed Manager's operating agreement. If this action is taken, the RSPM shall determine any conditions to be met prior to the Manager's being allowed to apply for other available locations.
  - 3 revocation of the permit or license of the Licensed Manager

4 the Licensed Manager will receive an unsatisfactory grade on the 735 monthly inspection report.

K. Notification of Suspension or Termination of Permit and/or License:

- 1 Notice of suspension or termination of a Permit shall be hand delivered by the RSMA or the RSPM. This notice shall include the reasons for the RSPM's recommendation to terminate the Permit and shall specify any conditions the SLA requires the facility Manager to meet prior to permitting the vendor to apply for other locations. Licensed Manager appeal rights shall be included in the notice.
- 2 Notice of suspension or termination of a Manager's license shall be hand delivered by the RSMA or RSPM. The notice shall include reasons for the RSPM's recommendation to suspend or terminate the Manager's license and shall include the Manager's rights to appeal.

Section 21

I. DUE PROCESS PROCEDURES

A. General - The State Licensing Agency provides each licensed manager the opportunity to seek remediation of dissatisfaction with any SLA action arising from the operation of the Business Enterprise Program (BEP). Any Licensed Manager who feels that any action taken against him/her by the SLA is not justified and inappropriate has the right to request a review within 15 working days of the contested action. Failure to request a review within the appropriate time will result in the grievance being denied and the facts of the case not reviewed. To facilitate this review process, the following guidelines are set forth.

1. Informal Administrative Review. It is the policy of the SLA to resolve complaints in an expeditious and facilitative manner. These resolutions shall be accomplished through the informal administrative review process whenever possible. This informal process is not for the purpose of denying or delaying the Manager's right to pursue resolution of a matter through a full evidentiary hearing. At any point during the informal process, either party may elect to terminate the proceedings and move to request a full evidentiary hearing within established due process time lines.

a) the request for an informal administrative review must be submitted in writing to the Randolph Sheppard Program Manager within fifteen working (15) days of the contested action. The request must state specifically that an informal Administrative Review or an appeal is being

requested. Letters of complaint will not be accepted as review requests unless that letter also states that an informal administrative review is being requested.

- b) the Randolph Sheppard Program Manager will ensure that all requests are handled expeditiously by providing written notification (by certified mail) of receipt to the Licensed manager and submitting the review to an impartial SLA staff member within 5 working days.
- c) Informal administrative reviews are conducted by the SLA staff person closest to the problem, who was not involved in the action resulting in the complaint, and who can resolve the complaint in the most expeditious manner.
- d) The informal administrative review is to be completed within 45 calendar days of receipt of the written request for a review to the appropriate SLA staff person.
- e) The results of the informal administrative review are to be reported in writing to the Randolph Sheppard Program Manager (RSPM), with a copy going to the Licensed Manager affected.

2. Full Evidentiary Hearings. Licensed Managers have the right to a full evidentiary hearing to resolve dissatisfaction with any SLA action arising from the operation or administration of the Business Enterprise Program. Evidentiary hearings shall be conducted as set forth in the following.



- a) If the complaint cannot be resolved with an informal administrative review, or in the absence of an informal administrative review, the Licensed Manager may request a full evidentiary hearing. The request for a full evidentiary hearing must be made to the RSPM in writing within 30 calendar days from the date the Licensed Manager receives the written notification of adverse action, or the written report of the informal administrative review. The request for a full evidentiary hearing is to be sent by certified mail.
- b) The Licensed Manager may be represented in the evidentiary hearing by legal counsel, or other representation of the Licensed Manager's choice, and at the Licensed Manager's expense.
- c) Reader services or other reasonable accommodations will be arranged by the SLA upon the request of the Licensed Manager.
- d) To the extent possible, the hearing will be scheduled by the SLA for a time and place convenient and accessible to the Licensed Manager and the SLA staff involved in the hearing. The Licensed Manager will be notified of the place and time of the hearing and the right to be represented by legal or other counsel.
- e) The hearing will be conducted by an impartial and qualified official designated by the DSS Appeals Bureau with no involvement or vested interest in the SLA, action at issue, or with the operation of the affected business enterprise.

The presiding officer will conduct the hearing in accordance with state and/or federal laws and rules governing the conduct of such proceedings. In any case, the hearing will be conducted in a manner that avoids delay, maintains order, and provides for a full recording and reporting of the proceedings so that a full and true disclosure of the facts and issues occurs.

- f) The hearing officer's determination will be based upon the facts as presented by both parties and upon applicable law, and the existing rules of the SLA. The hearing officer does not have the power to rule upon the legality or construction of the rules themselves. The officer's decision will determine the relevant issues and facts to be ruled upon.
- g) The hearing officer shall make a written report of the evidence presented, the laws and rules used in determining a resolution, and the resolution itself. This report shall be issued to the RSPM and the Licensed Manager, or his/her authorized representative within 15 calendar days of the conclusion of the full evidentiary hearing.
- h) If the Licensed Manager is dissatisfied with the decision, he or she may request that the secretary (USDE) convene an arbitration panel.

3. Arbitration of Complaints after the Evidentiary Hearing. The Licensed Manager has the right to file a request for arbitration with the secretary (USDE) if dissatisfied with the outcome of the evidentiary hearing. By filing a complaint with the secretary, the

Licensed Manager consents to the release of information necessary for the conduct of an ad hoc arbitration panel.

a) The complaint must be filed in writing and must contain:

- (i) statement of the grievance;
- (ii) the date and place of the full evidentiary hearing;
- (iii) a copy of the decision and what actions have been taken because of the decision;
- (iv) the part of the decision which is causing the dissatisfaction and reason for the dissatisfaction; and
- (v) a statement as to what is required to remedy the situation.

b) The secretary (USDE) will convene an arbitration panel after receiving a complaint, which meets the requirements in §519.G.3.a.i-v. The decision of the panel will be final, except as provided for in 20 U.S.C. 107d-2. The secretary will pay the reasonable costs for the arbitration. An abstract of the arbitration decision will be published in the Federal Register. The panel will be convened by the secretary in accordance with the following:

- (i) the SLA shall designate one member of the panel;
- (ii) the Licensed Manager shall designate one member of the panel;

- (iii) the designees of the SLA and the Licensed Manager shall together designate the third panel member who shall not be an employee of the SLA or its parent agency. This member shall be the chairperson of the panel; and
  - (iv) if the SLA or Licensed Manager does not select a member for the panel, the secretary will designate such a member on the applicable party's behalf.
- 4 Arbitration of SLA Complaints against Federal Agencies. The SLA is to resolve problems related to the operation of a business enterprise with the full participation of the Licensed Manager and the appropriate property manager. The SLA may file a complaint with the secretary (United States Department of Education (USDE)) if it determines that an agency controlling Federal property is not complying with the provisions of the Randolph-Sheppard Act or U.S. Department of Education regulations. After the complaint is received, the secretary will convene an arbitration panel. If the panel finds that the Federal agency is in violation of the Act or USDE regulations, that Federal agency will be notified that it is expected to correct the violation according to 20 U.S.C. 107d-2. The secretary pays the reasonable costs of this arbitration. The decision resulting from the arbitration will be published in the Federal Register. The arbitration panel will be convened by the secretary in accordance with the following:
- a) the SLA will designate one member of the panel;

- b) the agency controlling the federal property over which the dispute arose will designate one member of the panel;
- c) the designees of the SLA and the agency controlling the property will designate a third member who is not an employee of the agency. This member will chair the panel; and
- d) if either the SLA or the head of the federal department, agency, or instrumentality fails to designate a member of an arbitration panel, the secretary shall designate such member on behalf of such party.
- e) The decision of the panel will be final.

SECTION 22

- I. BEST PRACTICES SECTION FOR RANDOLPH SHEPPARD MANAGERS
  - A. Open a commercial business bank account to maintain sufficient funds to operate the vending facility.
  - B. Complete paperwork/reports daily
    - 1 print and file Z tapes daily. Since register tapes fade over time, write the date on each Z tape receipt.
    - 2 input information into 714 monthly reports daily
  - C. To ensure that the files at the vending facility clearly document:
    - 1 each day's individual purchases; and
    - 2 gross sales, at the end of each day;
    - 3 clip the Z tape verification of the day's gross sales to the individual day's receipts.
  - D. Keep all facility operations, personnel, and all other data/records organized in files/folders
  - E. Update the product inventory list at least once per week.

Section 23

SLA CONTACT INFORMATION

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