

Food Service Operations

Handbook EL-602

August 2010
Transmittal Letter

A. Explanation

Handbook EL-602, *Food Service Operations*, is a complete revision of the November 1994 edition (updated with *Postal Bulletin* articles through October 17, 2002). All previous editions of Handbook EL-602 are obsolete.

The handbook has been reorganized and rewritten for clarity and to reflect changes in regulations, policies, and procedures.

B. Distribution

This handbook is available on the Postal Service PolicyNet Web site: <http://blue.usps.gov/cpim/>.

C. Comments

Submit questions and suggestions about the content of this document in writing to:

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D. Effective Date

This handbook is effective August 2010.



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1 Introduction

11 About This handbook

111 Purpose

This handbook establishes Postal Service™ policy and procedures for managing food service operations.

112 Audience

The audience for this handbook is all Postal Service facilities nationwide that have food service operations ranging from automatic vending machines to large manual (i.e., staffed) cafeterias.

113 How to Use

Access the handbook online and search any topic by clicking a title in the table of contents or by using the automated search feature. You can print out a page, several pages, or the entire handbook.

12 References and Resources

121 Directives

The *Administrative Support Manual* (ASM), available at <http://blue.usps.gov/cpim/ftp/manuals/asm/asmtc.pdf>.

Handbook F-101, *Field Accounting Procedures*, available at <http://blue.usps.gov/cpim/ftp/hand/f101.pdf>.

122 Glossary

The Act. The Randolph-Sheppard Vending Stand Act, Public Law (PL) 83-565 and PL 93-516, 20 United States Code (U.S.C.), Ch. 6A, Sec. 107.

Cafeteria. A food-dispensing facility capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where customers serve themselves from displayed selections; may be fully automatic or may provide limited waiter or waitress service; table and seating always provided.

Charities/Fundraisers. Includes bake sales and the sale of like products, such Coca-Cola or Pepsi, breakfast foods, and sandwiches; considered direct competition as defined in the Randolph-Sheppard Act. Any monetary

collection for coffee is considered direct competition. See 34 Code of Federal Regulations (CFR) 395.1(f).

Commissions. See Vending Machine Income.

Direct Competition. The presence and operation of a vending machine or vending facility on the same premises as a vending facility operated by a blind vendor.

eMOVES. Web-based electronic Money Order Voucher Entry System developed to aid in the processing of (1) PS Form 12, *Daily Financial Report*; (2) Account Identifier Code (AIC) entries; and (3) Money Order Vouchers.

Federal Property. Any building, land, or real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the United States Postal Service).

Installation or Facility Location. A single building or a self-contained group of buildings. In order for two or more buildings to be considered a self-contained group of buildings, the buildings must be located in close proximity to each other, and a majority of the federal employees housed in such buildings must regularly move from one building to another in the course of official business during normal working days.

License. A written instrument issued by a State Licensing Agency (SLA) to a blind person, authorizing such person to operate a vending facility on federal or other property.

New Vending Opportunity. A new Postal Service facility and an expired contract with a commercial vendor.

Normal Working Hours. An 8-hour work period between the approximate hours of 8:00 a.m., to 6:00 p.m., Monday through Friday.

Peak Hours. Shift or tour with the highest number of employees.

Permit. The official approval given to an SLA by the department, agency, or instrumentality in control of the maintenance, operation, and protection of federal property.

Satisfactory Site. An area fully accessible to vending facility patrons and having: (1) a minimum of 250 square feet available for the vending and storage of articles necessary for the operation of a vending facility; and (2) sufficient electrical plumbing, heating, and ventilation outlets for the location and operation of a vending facility in accordance with applicable health laws and building codes.

Note: The SLA has the right of first refusal for any food service or vending operation on Postal Service property, whether or not the operation meets satisfactory site provisions.

Vending Facility. Automatic vending machines, cafeterias, snack bars, cart services, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees 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. This includes the vending or exchange of chances for any lottery authorized by state law and conducted by an agency of a state within a state.

Vending Machine. For purposes of assigning vending machine income under this handbook, “vending machine” means a coin- or currency-operated machine that dispenses articles or services.

Exception: Machines 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 vending machines.

Vending Machine Income: Either of the following (except income received by a blind vendor):

- *Receipts* from vending machine operations on federal property, after deducting the cost of goods sold (including reasonable service and maintenance costs in accordance with the customary business practices of commercial vending concerns), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States.
- *Commissions* paid by a commercial vending concern that operates, services, and maintains vending machines on federal property for, or with the approval of, a department, agency, or instrumentality of the United States.

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2 Food Services Program

21 Postal Service Policy

211 **Operation**

It is Postal Service policy to provide employees with quality food at reasonable cost when equal service is not conveniently available from commercial sources. Because minimal time and effort is to be expended by Postal Service personnel in managing food operations, this service is contracted out to professional in-plant food management firms and concessionaires whenever the size of the facility permits. Such concessionaires include qualified vending operations established by SLAs for blind vendors.

212 **Control**

All food service facilities are under the management control of the Postal Service installation head. This function may not be delegated to any other employee or committee.

213 **Basic Clearance for Contractors**

Most food service contractors need only a basic clearance. This type of clearance is processed by the local installation head, **not** by the United States Postal Inspection Service. See ASM, parts 272.331 and 272.342, which describe the requirements for obtaining a basic clearance.

22 Randolph-Sheppard Act

221 **Priority for Blind Persons**

The Postal Service must support and comply with the intent and spirit of the Randolph-Sheppard Act (the Act), as amended in 1974 (20 USC 107 *et seq.*) and with the U.S. Department of Education's implementing regulations, re-codified as 34 CFR 395 (ED 395). The Act gives priority to blind persons in the operation of vending facilities on federal property, including cafeterias, snack bars, and automatic vending machines.

222 **Objective**

The primary objective of the Act is to provide blind persons with opportunities for remunerative employment and self-support through the operation of vending facilities on federal and other properties.

23 State Licensing Agencies

SLAs issue licenses to blind persons for the operation of vending facilities on federal and other property, as designated by the Secretary of Education (ED 395.1(v)). All permits for the operation by a blind licensee of a vending facility on postal property must be issued to the SLA in its name; the SLA then may place a qualified, licensed vendor in the vending facility.

24 Statewide Agreements

241 **Description**

A “statewide agreement” is an agreement between the Postal Service and the SLA that covers vending by both blind vendors and commercial (non-blind) vendors for all Postal Service facilities within a state. It can be initiated by either the SLA or the Postal Service.

242 **Preparing a Statewide Agreement**

When a statewide agreement is developed, it must provide, as completely as possible, the information shown in Appendix A, Sample Statewide Agreement.

243 **Submitting the Application**

The following guidelines apply:

- If the Postal Service initiates the process for a statewide agreement, the application is submitted to the SLA.
- If the SLA initiates the process for a statewide agreement, the application is submitted to Corporate Personnel Management (CPM), Postal Service Headquarters (HQ).
- The district Human Resources (HR) manager (or designee) negotiates with SLA representatives on applications for statewide agreements.
- CPM HQ signs the statewide agreement.

Note: In certain circumstances, the Postal Service may issue an individual site permit to an SLA under a statewide agreement; the SLA then may issue a license to a qualifying blind vendor.

25 Postal Service Cafeteria Committee

251 Purpose

The Postal Service Cafeteria Committee advises on matters such as improving service and surroundings and changing hours of operation of cafeterias within the provisions of the Randolph-Sheppard Act.

252 Members

The committee consists of one representative from each union assigned to the facility and one representative from supervision assigned by management. The installation head (or designee) chairs the committee and accepts recommendations, but is not bound by the committee’s advice.

26 Roles and Responsibilities

The following table outlines the roles and responsibilities associated with the Postal Service Food Service program.

This person or organization...	Is responsible for...
Employee Resource Management	<ul style="list-style-type: none"> ■ Ensuring compliance with the Randolph-Sheppard Act (the Act).
District HR managers, installation heads, and managers of HQ field units	<ul style="list-style-type: none"> ■ Coordinating with and seeking guidance from the CPM manager (or designee).
Manager, Corporate Personnel Management (CPM) or designee	<ul style="list-style-type: none"> ■ Ensuring compliance with the Randolph-Sheppard Act ■ Approving or denying cafeterias for HQ and HQ field units.
District HR manager (or designee)	<ul style="list-style-type: none"> ■ Administering food service operations. ■ Ensuring coordination with CPM. ■ Ensuring that copies of contracts, permits, and statewide agreements are submitted to the SLA and the installation head. ■ Providing guidance and direction to installation heads as necessary. ■ Approving SLA operating permits. ■ Reviewing and approving the food service requirements package.
ESCMC Contract Administrator	<ul style="list-style-type: none"> ■ Monitoring day-to-day contract activity. ■ Serving as the point of contact between the Postal Service and the food service management company.

This person or organization...	Is responsible for...
Installation Head	<ul style="list-style-type: none"> ■ Coordinating with the district HR manager (or designee) to determine the type of food service required. ■ Developing the requirements package. ■ Assisting the contracting officer in selecting the contract administrator. ■ Monitoring compliance with the Act. ■ Negotiating with the SLA in acquiring a permit to operate vending facilities and recommending approval to the district HR manager. ■ Reviewing and signing approved permits. ■ Directing the contractor to send a separate check to the U.S. Postal Service, in care of the Randolph-Sheppard Coordinator, for the operating fee of 1.5 percent of net sales due the Postal Service (for non-blind vendor operations only). ■ Ensuring that the 1.5 percent fee is paid to the Postal Service. ■ Ensuring that the operating fee check received from the contractor is deposited into the official bank account and recorded under Reimbursement Miscellaneous Services, Non-Governmental Agencies, AIC 176. ■ Chairing the Postal Service Cafeteria Committee. ■ Representing the Postal Service in arbitration under the Act.
SLA Local Representative	<ul style="list-style-type: none"> ■ Assisting the installation head with resolving day-to-day problems when they cannot be resolved by direct contact with the blind vendor.
State Director	<ul style="list-style-type: none"> ■ Working with the Postal Service if the local SLA representative cannot resolve a problem, as requested by the district HR manager.
Vendor	<ul style="list-style-type: none"> ■ Maintaining a viable vending facility in a clean and sanitary condition at all times. ■ Cleaning and sanitizing: <ul style="list-style-type: none"> - All equipment and display shelves in the customer serving area. - The serving lines, preparation area behind the lines, and storerooms and kitchens. ■ Marketing assigned facilities by offering quality products at competitive prices. This includes fulfilling all responsibilities normally associated with the operation of a retail food business, such as maintaining sufficient product inventory and ensuring that products are fresh and never offered after the sell-by date.

3 Planning

31 Existing Facilities

The installation head assesses the present food service arrangements and decides if changes will result in an improvement. Possibilities include:

- Replacing a cafeteria with a vending operation.
- Changing types of vending machines.
- Increasing or decreasing the number of vending machines
- Regrouping satellite vending machines scattered throughout a building.

32 New Facilities

321 **Coordination**

When planning new construction or the acquisition of an existing building, the installation head must coordinate food service installations with (1) the manager, Planning and Construction, or the project manager in Facilities (or designee); and (2) the SLA.

Note: Regulations 34 CFR 395.30 and 34 CFR 395.31 apply to the location and operation of vending facilities on occupied or acquired property.

322 **Facility Design**

Facility design must include complete layout plans showing equipment placement. If hot food will be provided (i.e., in a cafeteria with or without a grill), the Postal Service will provide all major fixed equipment, which will be installed as part of the original construction. If only vending machines will be provided, the SLA or blind vendor or the commercial food management contractor will provide all equipment as part of the permit or contract for operation of the facility.

323 **Establishing Food Services**

323.1 **Standards and Criteria**

The total complement during peak hours will be assessed when establishing a food service operation. Use this table to determine the type of food service

operation required, based on the number of employees that must occupy a facility, station, or plant during peak hours:

Number of employees that must occupy a facility, station, or plant during peak hours	Type of food service operation
10 to 799	Snack vending services
800 to 999	Cafeteria with no grill
1,000 or more	Cafeteria with grill

323.2 **Assessing Local Conditions**

323.21 **Outside Services**

When good, economical commercial sources are available and located so that employees can use them for meal breaks on all tours, the need for in-house food service may be limited to vending in work areas or to meet assessed needs.

323.22 **In-house Services**

When reliable in-house service is the only workable solution, employee needs must be satisfied by a cafeteria, vending machines, or the most appropriate food service operation.

33 Developing a Requirements Package

331 **Components**

Contracting for food services requires developing and providing a requirements package that:

- Complies with the Randolph-Sheppard Act.
- Contains a Statement of Work and associated attachments; these are available at http://blue.usps.gov/purchase/doc/smh_foodsov.doc.

The district HR manager must thoroughly review the requirements packages and contact the Eastern Services Category Management Center (ESCMC) in Memphis for distribution of the approved packages.

332 **Submittal Time Frames**

Requirements are submitted within the following time frames so ESCMC can implement food services on the required dates:

For this type of food service...	Submit requirements up to...
Cafeteria, new facility	12 months before facility activation.
Cafeteria, renovated facility	6 months before the need date.
Vending facility	6 months before the need date.

4 Vending Operations

41 Policy

Items such as soup, canned food, sandwiches, ice cream, and beverages are provided through cafeteria or vending facilities in areas available to employees. The Postal Service does not permit vending services of this type in Postal Service lobbies by either commercial or blind vendors. Permits are not tied to vendors.

42 Blind Licensees

421 **Priorities**

When establishing one or more vending facilities on Postal Service property, priority must be given to blind licensees whenever an opportunity becomes available.

Exception: This rule may be superseded in unusual circumstances, such as when the Secretary of Education determines that the interests of the United States will be adversely affected by the vending operation.

422 **Products Sold**

Articles sold at vending facilities operated by blind licensees may include the following:

- Newspapers, periodicals, publications, confections, tobacco products, food, and beverages.
- Chances for any lottery authorized by state law and conducted by an agency of a state within a state.
- Other articles or services as needed by the Postal Service and suitable for a particular location (as determined by the SLA in consultation with the installation head).

Such articles and services may be dispensed automatically or manually and may be prepared on or off the premises in accordance with all applicable health laws.

43 State Licensing Agency

All permits for the operation by a blind licensee of a vending facility on Postal Service property must be issued to the SLA in its name. That agency then assigns to each permit a blind vendor whom it has licensed as qualified to operate a particular type of facility, to include operating vending facilities at more than one location by means of a route.

44 Notification and Permit Process

441 **Randolph-Sheppard Act Requirements**

The notification and permit process set forth in this handbook complies with Randolph-Sheppard Act requirements. (For an overview of the process, see Exhibit 441, Randolph-Sheppard Permit Process.)

441.1 **State Licensing Agency**

The SLA must:

- Acknowledge receipt of the notice in writing within 30 days and indicate at that time whether it is interested in establishing a vending facility.
- Notify the Postal Service in writing if the state is not interested in establishing a vending facility.

441.2 **District HR Manager or Designee**

The district HR manager or designee must:

- a. Notify the SLA of a new vending opportunity.
- b. Notify the SLA in writing by Registered Mail™ service with return receipt requested.
- c. Maintain a copy of the notice.
- d. Maintain a copy of the acceptance or declination letter.

442 **Permit Application**

442.1 **State Licensing Agency**

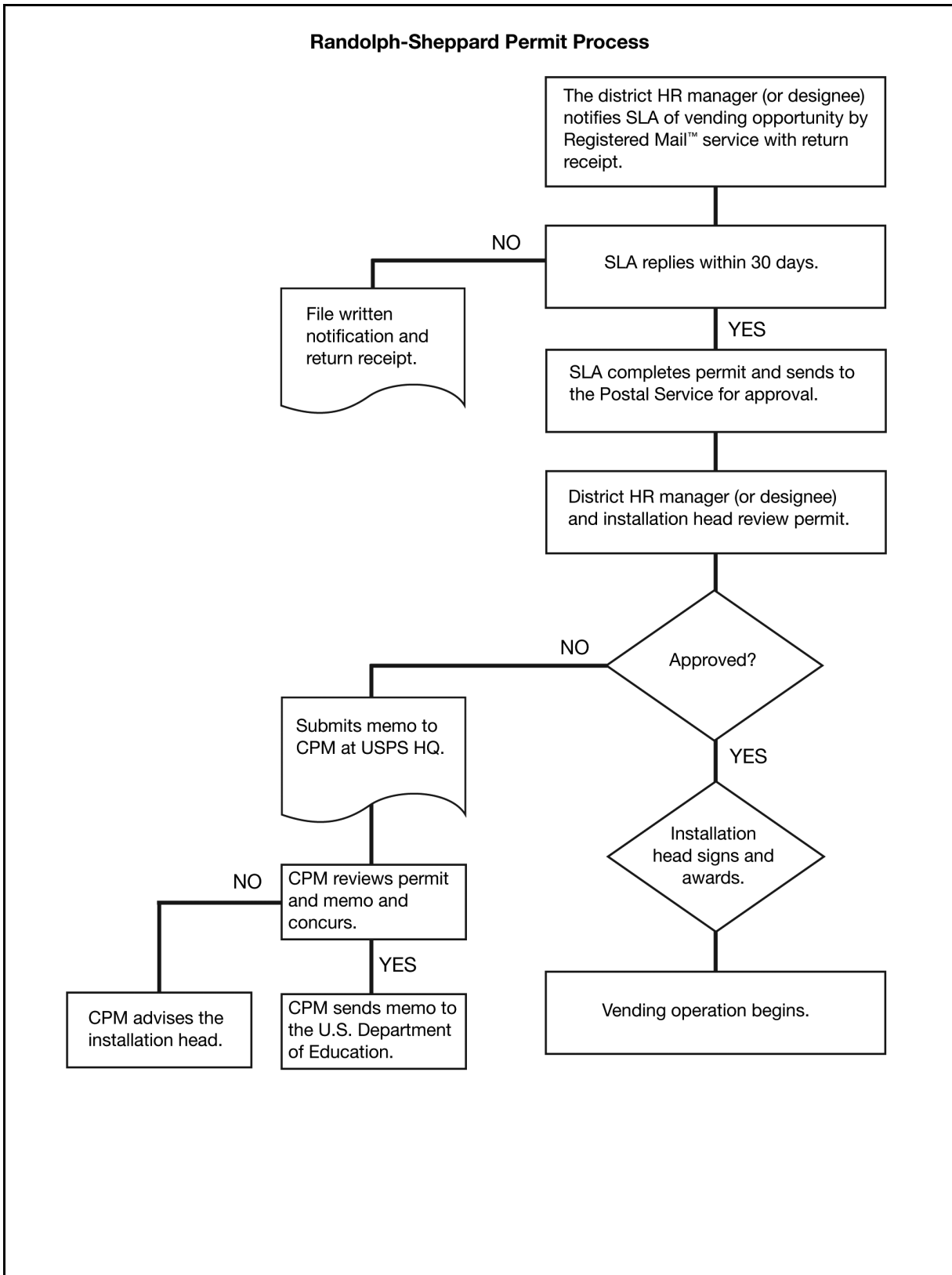
The SLA must:

- a. Apply in writing for permits for the operation of vending facilities other than cafeterias.
- b. Use the appropriate application form and attachments. (See Appendix C, Sample Application and Permit.)
- c. Ensure that the application and its attachments describe as completely as possible the type of facility the SLA proposes to operate, the approximate amount of space required, and the desired location. Attachments should include the following:

- (1) *Attachment A, Satisfactory Site.* If a site offered by the Federal Property Management Agency (FPMA) meets the minimum standards for the business opportunity to be developed by the SLA, as defined at 34 CFR 395.1(q), the SLA should add the following statement to Attachment A: “The site offered by the FPMA meets (or exceeds) the minimum standards defined at 34 CFR 395.1.q.”
 - (2) *Attachment B, Facility Floor Plan.*
 - (3) *Attachment C.* List the menu items to be sold; include the lottery ticket authorization if applicable. The Act describes articles that may be sold, including: (1) newspapers, periodicals, publications, confections, tobacco products, foods, and beverages; (2) chances for any lottery authorized by state law and conducted by an agency of a state within such state; (3) and other articles or services that are considered suitable for a particular location as determined by the SLA in consultation with the Postal Service. Attachment C also shall include the following statement: “In compliance with 34 CFR 395.35 (d) and (e), the design, construction, installation, and operation of vending facilities shall be in compliance with all applicable health, sanitation, safety, and building codes and ordinances.”
 - (4) *Attachment D.* SLA-furnished equipment and any federal agency-furnished equipment are listed on this attachment. Equipment must be listed in the application and permit by the SLA.
 - (5) *Attachment E.* The number, type, and location of vending machines must be listed in the application and permit.
 - (6) *Attachment F.* A statement about SLA share of income from vending machines installed in the building that are in “direct competition” and “not in direct competition” with SLA-furnished vending machines must be included.
 - (7) *Attachment G, Other Terms and Conditions.* Any other provision negotiated between the Postal Service and an SLA must be included. Attachment G also should include the essential management controls and performance standards that the Postal Service would include in any commercial agreement covering food and vending services.
- d. Submit the application to the district HR manager for review and approval.

Exhibit 441

Randolph-Sheppard Permit Process



442.2 Postal Service

The installation head will:

- a. Negotiate with SLA representatives regarding applications for permits in their installations.
- b. Obtain approval by the district HR manager or designee.
- c. Sign the permit.

Note: The district HR manager or designee will ensure copies are provided to CPM HQ.

443 Permit Approval and Disapproval**443.1 Approval**

- a. When the district HR manager or designee is satisfied with the permit applications, he or she forwards the unsigned applications to the installation head for review and final approval.
- b. If approved, the installation head signs the permit, sends a copy to the SLA, sends a copy to the CPM manager (or designee), and retains a copy in the file.

443.2 Disapproval**443.21 Disposition**

- a. If the installation head recommends disapproval of the permit application, he or she forwards the permit to the district HR manager and attaches a memo explaining the reasons for disapproval.
- b. The district HR manager investigates the matter for compliance with the Act and makes the final disposition, subject to 444.22 below.

443.22 Basis for Disapproval

When space and potential patronage are adequate to support a vending facility, the only basis for disapproving a permit is that the vending operations will adversely affect United States interests as determined by the Secretary of Education. If an installation head wishes to disapprove a vending facility on that basis, the following procedures are used:

- a. The installation head writes a recommendation stating the adverse affect of the facility on United States interests and sends it through channels to the district HR manager.
- b. If the district HR manager concurs, he or she explains that position in writing and sends the file to the CPM manager for review, as follows:
 - (1) If the CPM manager agrees, he or she asks the Secretary of Education to make a determination to that effect.
 - (2) If the CPM manager disagrees, he or she contacts the district HR manager and the installation head to resolve the matter.

444 Exceptions

A site for a vending facility to be operated by the blind need not be provided under one of the following conditions:

- a. The SLA, with the concurrence of the Secretary of Education, determines that the building will not support a blind vendor.
- b. Any limitation on the placement or operation of a vending facility, based on a finding that such placement or operation would adversely affect the interests of the United States Postal Service, shall be fully justified in writing to the Secretary of Education, who shall determine whether such limitation is justified. A determination made by the Secretary of Education pursuant to this provision shall be binding on the Postal Service.

445 **Complaints and Arbitration**

445.1 **Complaints**

If the SLA determines that the Postal Service is failing to comply with the provisions for the Act, the SLA may file a complaint with the Secretary of Education.

445.2 **Arbitration**

The Department of Education notifies the Postal Service General Counsel at HQ. CPM handles the matter with the assistance of the installation head and other departments, as appropriate.

5 Cafeteria Operations

51 Obtaining Contracts for Cafeteria Operations

To obtain a contract to operate a cafeteria, contact the ESCMC at Memphis by:

- Telephone at 901-747-7530; or
- E-mail at *CMC.EasternServices.Memphis@usps.gov*.

For additional information, go to ESCMC's website at http://blue.usps.gov/purchase/services/escmc_home.htm.

52 The No-Commissions Rule

Neither the Postal Service nor any employee nor the social and recreational committee may collect a commission on a cafeteria operated by the blind.

53 Arrangements Not Covered by SLA Contract or Permit

All contracts or other existing arrangements pertaining to the operation of cafeterias on federal property not covered by either a contract with, or a permit issued to, an SLA shall be renegotiated subsequent to the effective date of this revised handbook on or before the expiration of such contracts or other arrangements pursuant to the provisions of this chapter.

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6 Equipment and Maintenance

61 Building Services

611 Access

The Postal Service permits contractors or concessionaires to use existing freight elevators, corridors, passageways, and loading platforms whenever necessary.

612 Utilities

In vending facilities operated under the permit provisions of the Act, the Postal Service provides necessary approved utilities at its own expense. This includes:

- Providing the necessary space, heating, air conditioning, lighting, ventilation, water and sewer facilities, and utility lines.
- Connecting utility lines to equipment provided by the Postal Service or the contractor (except vending equipment).
- Providing utility outlets for vending machines (but bearing no other cost connected with the installation of vending machines).

Note: The Postal Service pays for actual utility service only when a permit for a blind vendor is involved. For non-permit vending facilities, each vending contract must specifically address utilities.

62 Cleaning

621 Facilities Covered by the Randolph-Sheppard Act

The Postal Service:

- Waxes, repairs, and replaces floor coverings.
- Cleans and repairs window coverings.
- Cleans windows.
- Provides cleaning service in vending areas that remain open after working hours at the level of cleaning established for the building.

Note: Cleaning at a higher level or in areas closed after working hours must be provided at the expense of the vending operator.

622 **Facilities Operated by Commercial Contractors**

Facilities operated by commercial contractors are cleaned according to the provisions of the Postal Service contract with the vendor.

63 **Telephones**

The contractor or concessionaire bears the expense of telephones used in the vending operation.

64 **Building Structure**

Subject to the provisions of individual contracts, the Postal Service maintains and repairs the building structure in and adjacent to concession areas, including:

- Utility lines and existing air conditioning and ventilation systems to the (1) point of connection with concession equipment, or (2) point of outlet when concession areas are not so connected.
- Re-lamping and normal maintenance of lighting fixtures, space heating systems, floors and coverings, shades and venetian blinds, walls and ceilings (including painting).

65 **Equipment**

651 **State Licensing Agency Equipment**

The SLA for the blind is obligated to furnish, repair, and replace all equipment for vending-stand facilities operated under the provisions of the Act. Such equipment must be:

- Designed and arranged to facilitate sanitary operation and minimize congestion, hazards, and general maintenance.
- Adapted to the utility services that are available.

652 **Postal Service Equipment**

652.1 **Initial**

The Postal Service furnishes, installs, and connects all original food service equipment of a fixed or substantially permanent nature (except in vending facilities operated by the blind). The equipment may be modified for use by other food concessions as required for satisfactory operation.

Within the limits of the installation head's authority to make local purchases, the installation head may purchase refrigerators and microwave ovens from Postal Service funds for employee lunchrooms.

652.2 Replacement

The Postal Service replaces equipment and makes major repairs. The repair or replacement of major component parts must be defined in each contract. Such repairs and replacements usually mean those that cost an amount equal to or exceeding 10 percent of the original cost of equipment, but not less than \$25.

653 Contractor Equipment**653.1 Initial**

When vending is provided pursuant to a contract, the contractor furnishes all necessary concession equipment that is not furnished by the Postal Service. All contractor-furnished equipment is subject to Postal Service approval. The contractor provides all non-fixed cafeteria equipment and utensils and replaces them as necessary.

653.2 Replacement

Subject to the provisions of the contract, the contractor maintains, repairs, and replaces equipment as necessary without expense to the Postal Service. A contractor using Postal Service equipment maintains and makes minor repairs to equipment as provided in the contract. Also, a contractor must replace or repair, at his or her own expense, any Postal Service equipment that is damaged or destroyed through negligence.

66 Reimbursement

661 Services

Concessions, other than vending facilities operated by the blind, are required to reimburse the Postal Service for the following:

- Cleaning and waxing, including the cleaning of grease traps.
- Extermination of rodents and vermin within concession areas.
- Repair and service of concession equipment of all types.

662 Operating Fee

Contractors or concessionaires operating cafeterias or food service vending facilities under contract must pay the Postal Service an operating fee of 1.5 percent of net sales. This is in lieu of reimbursement for depreciation of equipment and for normal building services, such as space and utilities. The fee does not apply to vending facilities operated by the blind under permit.

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7 Service Animals and Recycling

71 Service Animals

711 Policy

Some blind persons use service animals to assist them. It is Postal Service policy that every reasonable effort be made to accommodate service animals within the confines of a Randolph-Sheppard Act vending facility during the period the blind person is working in the facility (41 CFR 101-20.311).

712 Conditions

Service animals must be allowed to remain within the vending facility if the following conditions are met:

- State and local laws are adhered to regarding service animals.
- Service animals are inoculated for rabies as required by state and local laws and regulations. Satisfactory evidence of each inoculation must be displayed by the vendor.
- Service animals are restrained within the vending facility away from the food serving and preparation area, and the area selected for restraining them:
 - Must be large enough to restrain the animal comfortably, permit free circulation of air, and be kept clean at all times.
 - Must be mutually agreed upon by the installation head, the blind vendor, and the SLA.
- Service animals are housebroken, well groomed, clean, and free from odor at all times.
- Service animals and vending facilities are kept free from fleas and other vermin.
- Service animals are exercised regularly outdoors during the day as required.
- Housekeeping sanitary conditions are maintained at all times, and any unsatisfactory condition resulting from the presence of a service animal is corrected immediately.

72 Recycling

721 **Postal Service Commitment**

The Postal Service is committed to protection of human health and the environment. Recycling is the obligation of all employees and all individuals who use postal facilities.

722 **Responsibilities**

722.1 **Headquarters**

Facilities at Headquarters implements the recycling program and assures compliance with Postal Service policy. Managers of HQ field units coordinate with and seek guidance from Facilities.

722.2 **Districts**

Installation heads implement recycling programs in their facilities. District managers monitor all food operations to ensure recycling compliance.

722.3 **Contractors**

“Food service contractors” includes cafeterias, vending machines, and snack vending stands operated by commercial firms or SLAs. All food service contractors must:

- Initiate and monitor their own recycling programs.
- Package their goods in recyclable materials.
- Provide can crushers to reduce the volume of recyclable items generated by vending machines that dispense aluminum cans.

8 Income Sharing and Annual Report

81 State Licensing Agency Criteria

811 Building Parameters

An individual location, installation, or facility is a single building or self-contained group of buildings. Two or more buildings are a self-contained group when they are close together and a majority of employees in each building move regularly from one to another on official business during normal working hours.

812 Vending Income

As prescribed in 34 CFR 395.32, each department, agency, or instrumentality of the United States shall be responsible for the collection of, accounting for, and disbursement of vending machine income to the SLA from vending machines under the control of on-site or property management officials.

812.1 Description

“Vending machine income” means receipts or commissions from vending machine operations (other than those of a blind vendor), as follows:

- *Receipts* from vending machine operations on federal property, after deducting the cost of goods sold (including reasonable service and maintenance costs in accordance with customary business practices of commercial vending concerns) where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States.
- *Commissions* paid by a commercial vending concern that operates, services, and maintains vending machines on federal property for, or with the approval of, a department, agency, or instrumentality of the United States.

Note: These funds are not subject to the 1.5 percent operating fee due to the Postal Service.

812.2 Records

Separate records of vending machine income are kept for each Post Office, station, branch, annex, other building, or self-contained group of buildings. When the Postal Service leases space to other agencies, the installation head must acquire income data from the tenants controlling the vending machines.

812.3 Exceptions

Funds from the following equipment are not included in total vending machine income:

- Self-service postal units.
- Postal product machines.
- Pay telephones.
- Photocopiers.
- Recreational information/service machines.

812.4 Percentage

Effective January 2, 1975, vending machine income from vending machines on federal property must accrue to the SLA that administers the Randolph-Sheppard Act program in the state. The share of income that must be paid to the SLA depends on the determination of “direct competition” or “no direct competition” with any vending facility on the premises operated by a blind vendor.

If there is no direct competition, the percentage of vending machine income that accrues to the SLA depends on the total amount of annual vending machine income and the hours during which most employees work at the building.

The following table shows how the SLA’s share is determined:

Determining the Share of Vending Machine Income Due the State Licensing Agency			
Direct Competition	Total Annual Vending Machine Income in Postal Service Building	If more than 50% of total work hours occur...	
		During normal working hours...	Outside normal working hours...
		Then the share due the SLA is...	
Yes	Varies	100%	100%
No	\$3000 or less	0	0
No	More than \$3000	50%	30%

813 Determining Share

813.1 Direct Competition

813.2 Definitions

Direct Competition. The presence and operation of a vending machine or a vending facility on the same premises as a vending facility operated by a blind vendor.

Direct Access. Uninterrupted ease of approach and the amount of time required to patronize the vending facility operated by the blind vendor.

813.3 Determination

The determination that a vending machine on federal property is in direct competition with a vending facility operated by a blind vendor shall be the

responsibility of the on-site official responsible for the Postal Service property, subject to the concurrence of the SLA.

Vending machines and facilities operating in areas serving employees, the majority of whom normally do not have direct access to the vending facility operated by a blind vendor, shall not be considered to be in direct competition.

813.4 **SLA Share**

All vending income (100 percent) from machines on the same premises that are in direct competition with a vending facility operated by a blind person must be conveyed to the SLA.

813.5 **No Direct Competition**

For machines not in direct competition, the share of all vending machine income to be conveyed to the SLA is:

- None, if the total vending machine income at the building does not exceed \$3,000 annually. If income is generated in a period of less than one year, such as when an existing facility is closed or a new facility is occupied, the obligation to share income is based on an annual rate of \$3,000 (\$250 per month) rather than a \$3,000 total annual income.
- Thirty percent at Postal Service buildings where less than 50 percent of the hours worked on the premises occur within the 8-hour work period between the approximate hours of 8 a.m. to 6 p.m., Monday through Friday.
- Fifty percent in all other cases.

82 Income Sharing Payment to the State Licensing Agency

821 **Scope**

These instructions apply to Headquarters and HQ field units. See Exhibit 821, Randolph-Sheppard Income Sharing Process.

822 **Responsibility**

All vending machine commissions (from non-blind vending operations) must be paid to the Postal Service. The contracting officer directs the food management provider to send commission checks payable to the U.S. Postal Service, attention contracting officer's representative, at the postal installation. A separate check is sent for the operating fee of 1.5 percent of net sales due the Postal Service.

823 **Undetermined Obligation to Share**

823.1 **Share Estimate**

Installation heads may be unable to determine whether the total vending machine commissions will exceed \$3,000 in the coming fiscal year and, therefore, create an obligation to share with the SLA.

At the beginning of each fiscal year, the installation head makes an objective estimate of the expected vending machine income. The installation head will follow the procedures in 823.2 unless he or she is certain that total annual income will not exceed \$3,000.

823.2 **Payments**

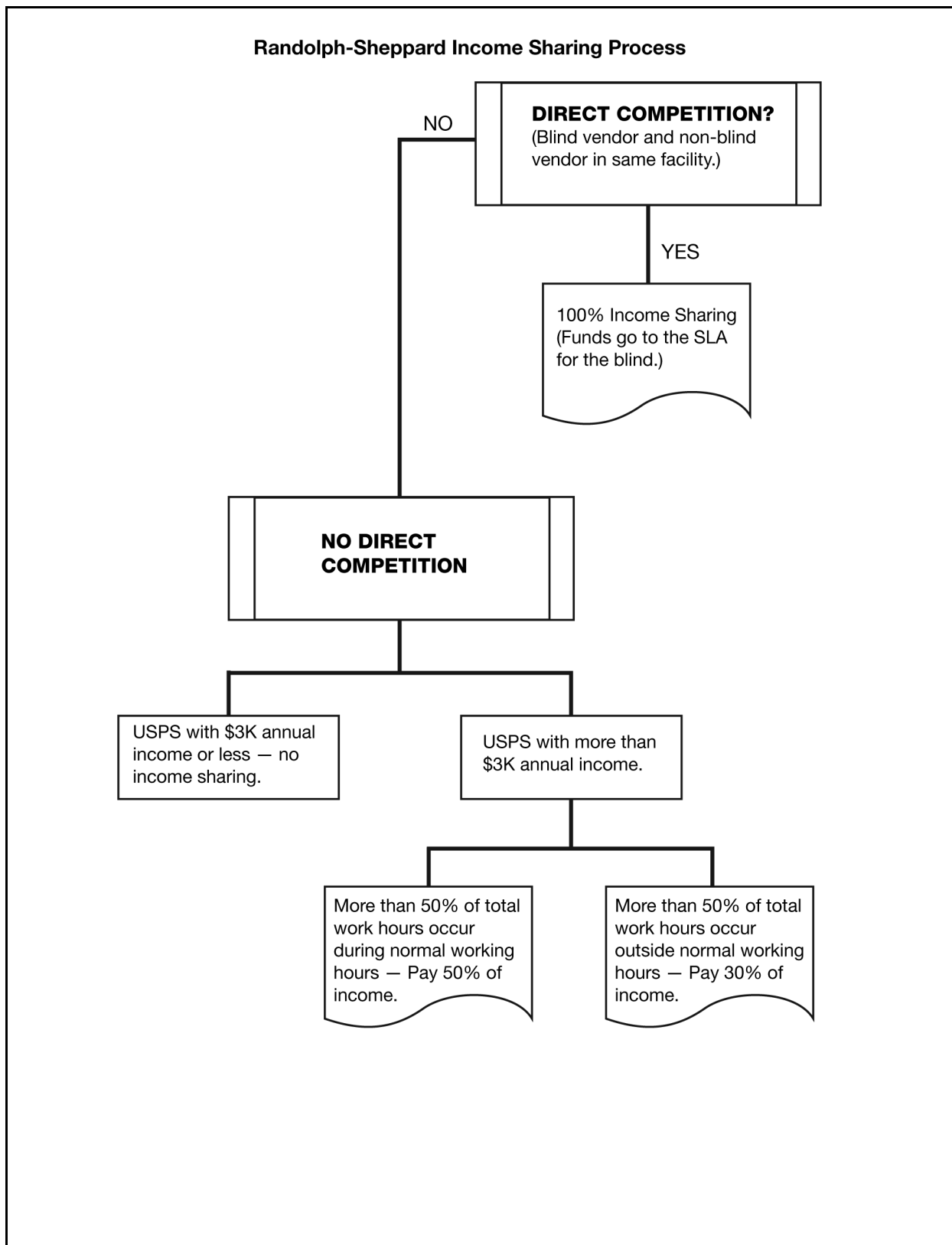
Field units that regularly receive vending machine commission checks must remit the appropriate payment to the SLA and properly deposit remaining funds through the unit's daily financial report.

- a. Commission checks for:
 - (1) Contracted, commercially operated snack vending machines are received by the district HR manager, postmaster, or installation head.
 - (2) Vending machines in local facilities may also be received directly from the vendor by the installation head.
- b. The postmaster or installation head collects and distributes income from vending machines to the SLA and ensures that activity reports of vending machine revenue are prepared.
- c. The district finance manager reviews vending machine commission records at least once a year.
- d. Upon receiving the operating fee check and the commission check from the snack machine vendor, the postmaster or installation head prepares a breakdown of the amounts to be disbursed and delivers the checks with the breakdown to the postal retail unit.
- e. The district finance manager:
 - (1) Records the operating fee check amount in AIC 176 and furnishes either PS Form 3544, *USPS Receipt for Money or Services*, or a system-generated receipt for the checks.
 - (2) Exchanges commission checks for no-fee postal money orders. This is an authorized exception to the check acceptance policy.
 - (3) Issues a money order for the amount due to the social and recreational committee.
 - (4) When appropriate, issues another money order for the amount due to the SLA.
 - (5) Ensures the fee for the no-fee money orders is reported in AIC 586. POS and eMOVES units use Reason Code 36, Social and Recreation Committee Fund Disbursement.

Note: See Handbook F-101, *Field Accounting Procedures*, Part 6-7.6, which describes vending machine income.

Exhibit 821

Randolph-Sheppard Income Sharing Process



83 Annual Reports

831 Requirements

831.1 State Licensing Agency Data

At the end of each fiscal year in compliance with the Act, CPM reports the following to the Secretary of Education:

- a. The total number of applications for vending facility locations received from state licensing agencies with the following breakdown:
 - (1) The number accepted.
 - (2) The number denied.
 - (3) The number pending.
- b. The total amount of vending machine income collected in each state.
- c. The amount of vending machine income disbursed to the SLA in each state.

See Exhibit 831.1, Annual Department of Education Report.

831.2 Sources

Required data is acquired as follows:

- a. Every installation head keeps a continuing record of required information.
- b. At the end of each fiscal year, every installation head prepares a summary for the *Postal Bulletin* in the format prescribed by the vice president, Employee Resource Management.

831.3 Submittal

The annual report on the proceeds of every Postal Service installation having even a single coin-operated vending machine that dispenses snacks, beverages, food, or tobacco is consolidated and submitted as follows:

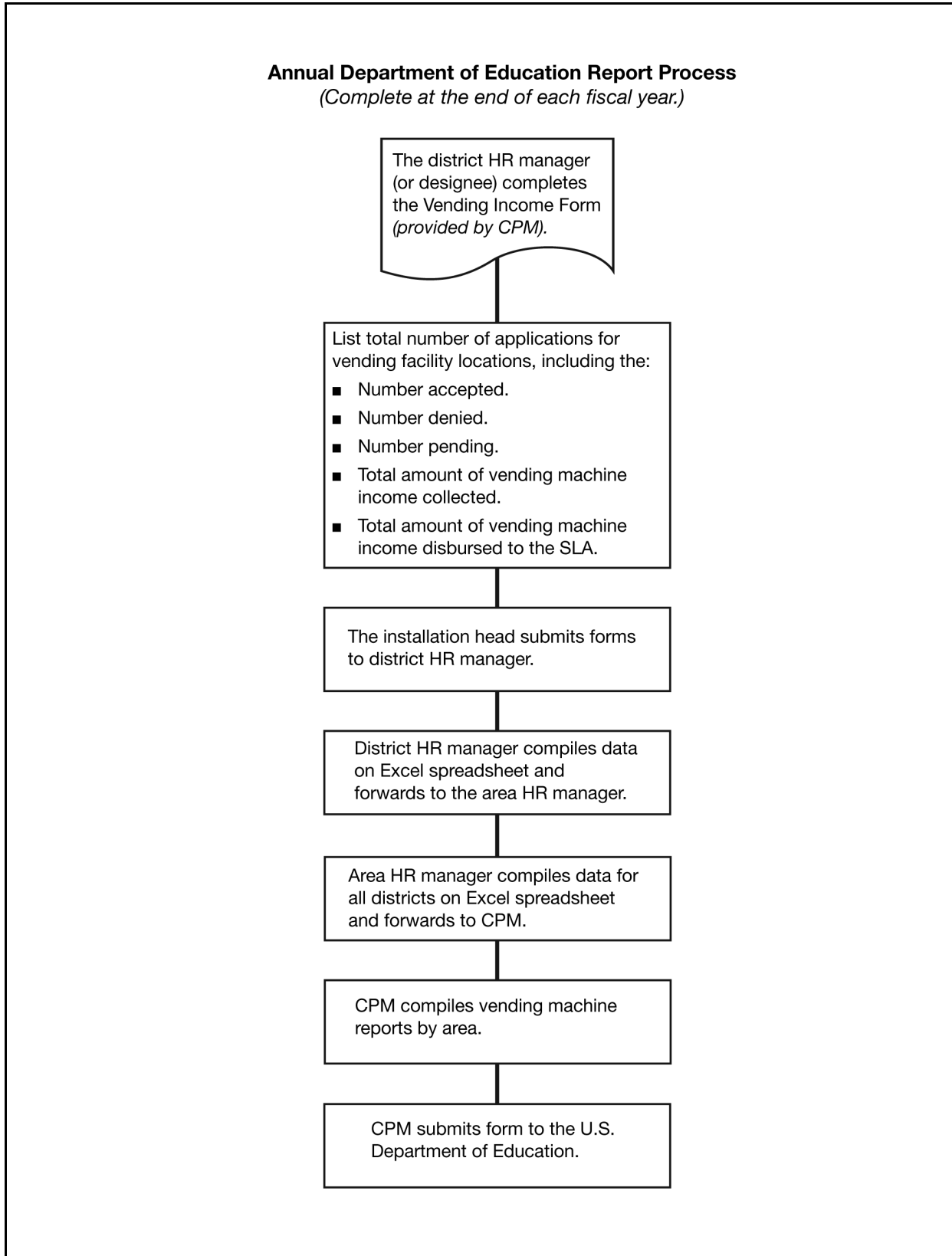
- a. All installation heads submit final reports to their district HR managers by the end of the third week in October.
- b. Installation heads and HQ field unit managers submit consolidated reports, summarizing the required data by states, to the CPM manager by the end of the second week in November.
- c. The CPM manager consolidates district and HQ field unit reports and submits the annual report to the Secretary of Education.

832 Audits

All installation heads must be aware that records are subject to audit, not only by the Inspection Service, but also by the U.S. Government Accountability Office. Scrupulous accuracy in record keeping and reporting, as required by this handbook, is essential.

Exhibit 831.1

Annual Department of Education Report Process



833 Requirements

833.1 Category Management Center Data

At the end of each fiscal year in compliance with postal regulations, CPM reports the following to the Category Management Center, Strategies Team:

- a. The total number of statewide agreements for vending facilities by state, including the:
 - (1) Supplier name (state in which the statewide agreement is designated).
 - (2) Statewide agreement date.
 - (3) Total revenue.
 - (4) Total expenses.
 - (5) Total net revenue.

Note: *Credit card purchases* fall under local buying delegations and should not be included as part of this report.

833.2 Sources

Required data is acquired as follows:

- a. Every district HR manager and/or Randolph-Sheppard Coordinator keeps a continuing record of required information.
- b. At the end of each fiscal year, every district HR manager and/or Randolph-Sheppard Coordinator prepares a Financial Report for Delegations of Authority.

833.3 Submittal

The annual report on the proceeds of every installation with one or more coin-operated vending machines that dispense snacks, beverages, food, or tobacco is consolidated and submitted as follows:

- a. District HR managers and/or Randolph-Sheppard Coordinators submit final reports to their district HR managers by the end of the third week in October.
- b. District HR managers and/or Randolph-Sheppard Coordinators and HQ field unit managers submit consolidated reports, summarizing the required data by state, to the CPM manager by the end of the second week in November.
- c. The CPM manager consolidates reports by state and submits the annual report to the Strategies Team.

834 Audits

All district HR managers and Randolph-Sheppard Coordinators must be aware that records are subject to audit. Requests for financial data may come from the Office of Inspector General, the Postal Regulatory Commission, Congress, the General Accountability Office, or another government organization with oversight responsibilities.

Appendix A

Sample Statewide Agreement

AGREEMENT BETWEEN
THE STATE OF "YOUR STATE NAME"
BUSINESS ENTERPRISE PROGRAM FOR THE BLIND AND
THE UNITED STATES POSTAL SERVICE

FOR THE ESTABLISHMENT OF VENDING SERVICES ON FEDERAL PROPERTY AS AUTHORIZED BY PUB. L. 74-732, AS AMENDED BY PUB. L. 83-565 AND TITLE II OF PUB. L. 93-516 (RANDOLPH-SHEPPARD ACT) AND UNDER THE MANAGEMENT OF THE UNITED STATES POSTAL SERVICE.

The "YOUR STATE NAME" (ABEP) (designated State Licensing Agency) of the State of "YOUR STATE NAME" enters into this agreement with the United States Postal Service (USPS) (Federal Property Agency) to provide vending services in accordance with 34 CFR Part 395 on all properties managed by USPS in the YOUR STATE NAME". This agreement satisfies the conditions set forth in 34 CFR § 395.16.

RECITALS

Whereas, the ABEP has determined that certain property managed by USPS meets the criteria for satisfactory vending service as defined in 34 CFR 395.1(q); and

Whereas, the ABEP and the USPS wish to clarify and formalize their respective duties and responsibilities with respect to operation of vending services on said property; and

Whereas, the ABEP and the USPS agree to comply with all applicable laws and regulations in executing this agreement;

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties hereby agree as follows:

1. **GRANT OF SPACE:** The USPS shall furnish the ABEP beginning on June 1st, 2010, or other date agreed to by the parties for a particular facility, space to operate vending machines without competition on certain USPS managed properties ("Vending Locations") in the "YOUR STATE" , as more fully described in Exhibit A, attached hereto and made a part of this Agreement.
2. **RIGHT TO OPERATIVE VENDING SERVICE:** Subject to the conditions stated in this Agreement, ABEP shall have the exclusive right to operate the vending service for the convenience of employees and visitors of USPS in all property managed by USPS in the "YOUR STATE". ABEP may utilize blind vendors or subcontracted vending companies to provide vending service to the USPS. For purposes of this Agreement, however, the vending services provided by ABEP are limited to the Vending Locations (i.e., this Agreement does not cover cafeteria operations).
3. **PAYMENT:** Each month, ABEP shall pay the USPS an "operating fee" of 1.50% of gross reported revenues generated from the vending facilities at the Vending Locations. In addition, ABEP shall pay USPS an additional fee of XXX% of gross reported revenues produced by each of the vending machines located at the USPS facilities for which there is a currently a Postal Service Social and Recreation Committee. The XXX% of gross revenues and 1.50% "operating fee" shall be paid from funds generated exclusively by ABEP through its commercial (non-blind) vendors, and no fees shall be paid from a Blind Vendor's site.

4. **HOURS OF OPERATION:** ABEP will provide vending services 24 hours a day, seven days a week.
5. **VENDING SERVICES AND PRICING:** The ABEP shall provide all vending machine services that are determined achievable by the ABEP and desired by USPS. ABEP shall service all vending machines as often as necessary to ensure that fresh products are available for customer purchase. Vending machine pricing will be equal to or below the market average in the "YOUR STATE NAME" with special consideration given to providing Postal Service employees products from vending machines which are comparable in quality, quantity and price to like products offered throughout the geographical area within which the federal property is located.

Note: The ABEP shall give USPS at least 30 days' written notice before raising the price of any product.

6. **BLIND VENDOR'S OPERATIONAL RESPONSIBILITY:** The blind vendors licensed by the ABEP shall operate on their own credit and shall furnish at their own expense all food and beverage items sold or served in the vending machines. The cost of all non-food supply items required for the food operation shall be borne by the licensed blind vendors. All incoming shipments of food and supplies shall be the responsibility of the licensed blind vendor's account. Blind vendors shall be responsible for all proper maintenance and repairs of vending machines and related equipment.
7. **USPS OPERATIONAL RESPONSIBILITY:** The USPS will furnish all necessary utility service, including connections and outlets required for the installation of the vending service, and where feasible janitorial and garbage disposal services, and other related assistance for operating the vending service. The blind vendor may only use such utilities for the exclusive purpose of operating the vending service. ABEP will not be responsible for repairs or replacement of equipment or fixtures, plumbing, electrical or other physical needs within the infrastructure of any building where vending service is provided. The USPS shall allow the ABEP to install new equipment they deem necessary for the operation of the vending service. In the event additional utility installations are required/requested by the ABEP in support of new or additional equipment after start up of services, ABEP shall obtain prior written approval from the USPS for the work to be done, and ABEP shall be responsible for the costs associated with the upgrade/change. Said equipment shall not be installed without written approval from the USPS.
8. **EXISTING AGREEMENTS:** The agreement to pay the USPS X% of gross revenues and a 1.5% "operating fee" does not apply to any vending services provided by the ABEP to USPS under a permit issued prior to the effective date of this agreement.
9. **ACCESS TO FEDERAL PROPERTY MANAGED BY USPS:** The USPS shall allow ABEP employees, licensed blind vendors, employees of licensed blind vendors, and subcontracted vending company employees, adequate access to the locations where vending service is provided. All individuals entering USPS facilities will comply with USPS operational security requirements and may be excluded for substantiated disregard of those requirements.
10. **MACHINE INCOME SHARING:** There shall be no sharing of any revenue or other income produced by vending machines other than as identified in this agreement.
11. **GARBAGE AND CLEANING:** The individuals servicing the vending machines will place trash and garbage at the locations designated by the USPS. All cleaning beyond the vending machines shall be the responsibility of the USPS.
12. **UTILITIES/MAINTENANCE:** The USPS does not guarantee an uninterrupted supply of water, electricity, air conditioning or heating. The USPS shall exercise all reasonable due diligence to restore such services following any interruptions.
13. **PEST CONTROL:** USPS shall be solely responsible for pest control services of the Vending Locations.

14. **FORCE MAJEURE/LIABILITY:** USPS shall not be responsible for any damage, theft or disappearance of the ABEP property installed under this agreement from break-in or burglary, electrical storm, acts of God or any other acts beyond the control of either party. In addition, except as otherwise specifically provided in an exception referring to this Section, neither the ABEP nor the USPS shall be liable to the other for any delay in, or failure of performance of, a requirement contained in this agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such force majeure or otherwise waive this right as a defense.
15. **NOTIFICATION OF MANAGERIAL MISCONDUCT; RIGHT OF TERMINATION:** The USPS shall exercise reasonable efforts to notify the ABEP of any alleged misconduct or mismanagement by an individual servicing the vending machines, or any other dissatisfaction with the ABEP under this agreement. Either party may terminate this agreement upon 60 days' written notice to the other party.
16. **EMPLOYEES:** Licensed blind vendors, their employees, and employees of vending contractors shall not be considered as employees of the ABEP or USPS.
17. **LIABILITY:** The USPS shall not be liable for any injuries, losses, claims or damages caused by or resulting from the negligence of the ABEP's employees, licensed blind vendors, employees of the licensed blind vendors or the vending contractors, or the employees of vending subcontractors.
18. **REGULATORY COMPLIANCE:** The ABEP shall ensure that the blind vendors licensed by ABEP and any vending subcontractors utilized by ABEP are aware of their obligations to comply with all laws, ordinances, regulations, orders and directives issued by any public health agencies or any other regulatory or enforcement agency affecting food service operation, including but not limited to liability insurance, Worker's Compensation Act, Equal Employment Opportunity, and the Rehabilitation Act of 1973 (as amended).
19. **RIGHT OF RECOMMENDATION:** The USPS shall have the right to recommend a change of personnel providing vending services. The USPS shall provide the ABEP written documentation containing the rationale for recommended changes. ABEP will consider USPS's recommendation and inform USPS within fifteen (15) business days from the date ABEP receives the request what, if any, action ABEP has decided to take based on the recommendation.
20. **THIRD PARTY RIGHTS:** This agreement is between the USPS and the ABEP and is not intended to and does not create any third party beneficiary rights, interest, property, privileges or any other interests in the licensed blind vendor, the licensed blind vendor's employees, or any other persons or entities not signatories to this agreement. In the event of termination or amendment of this agreement for any reason, the USPS and the ABEP shall not be responsible for any damages, losses, claims or any other amounts to each other, to any third party or any other persons or entities as a result of such termination or amendment. Nothing in this agreement shall prevent ABEP from entering into subcontracts with any person to provide the vending services contemplated by this Agreement. Notwithstanding any such subcontract, ABEP shall at all times be primarily responsible for providing such vending services at the Vending Locations.

21. **AUTHORIZED AGENTS:** ABEP shall direct all questions, requests and notices regarding this Agreement to the following:

MANAGER NAME
MANAGER, CORPORATE PERSONNEL MANAGEMENT
U.S. POSTAL SERVICE
475 L'ENFANT PLZ SW
WASHINGTON DC 20280-4261

TEL: 202-268-3646
FAX: 202-268-3488

USPS shall direct all questions, requests and notices regarding this Agreement to the following:

YOUR NAME
BUSINESS ENTERPRISES PROGRAM COORDINATOR
DIVISION OF VOCATIONAL REHABILITATION
ADDRESS
CITY STATE ZIP CODE

TELEPHONE NUMBER
E-MAIL ADDRESS

22. **ENTIRETY:** This agreement reflects the entire understanding between ABEP and the USPS regarding the vending services for federal property managed by USPS that is not under current permit with ABEP regarding such property.
23. **AUTHORITY:** The undersigned individuals represent that they have express authority to enter into this agreement on behalf of their respective agencies.
24. **WAIVER:** By entering into this agreement, the ABEP and the USPS do not waive any rights, privileges, remedies, defenses or immunities.
25. **GOVERNING LAW:** This Agreement shall be governed by federal law, including 20 U.S.C. § 107 et seq. with implementing regulations at 34 CFR § 395.1 et seq. Any provision of this Agreement that is held by a court of competent jurisdiction to be in violation of such laws shall be void and the remainder of this Agreement shall be interpreted without such void provision.
26. **JURISDICTION:** Any litigation arising out of this Agreement shall be conducted in the federal court system.

[SIGNATURE PAGE FOLLOWS]

Sample Statewide Agreement

The State of "YOUR STATE" Business Enterprise Program for the Blind

By _____

Name: _____

Title: _____ Director, Division of Vocational Rehabilitation _____

Date: _____

The United States Postal Service

By _____

Name: _____

Title: _____

Date: _____

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Appendix B

Sample Notice Letter to State Licensing Agency

SAMPLE NOTICE LETTER TO STATE LICENSING AGENCY
CERTIFIED MAIL™ – RETURN RECEIPT REQUESTED

Date

NAME OF SLA

ADDRESS

ZIP+4®

Subject: Randolph Sheppard Agency Notification

Dear _____:

In accordance with the regulations implementing the Randolph-Sheppard Act, 34 CFR 395.31 (a) & (c), the Postal Service gives notice to the [insert state name] State Licensing Agency for the blind of a vending facility opportunity.

The vending facility opportunity is located at the [Insert facility Name, address, city, state, and ZIP+4]. There are [insert number of employees] at the [insert facility name]. To ensure service is not interrupted for our employees, please provide written notice of the states intention on the vending opportunity listed below no later than 30 days from the date of this letter.

Your Name

Your Title

United States Postal Service

Address

City, State and Zip+4

As soon as we receive your notification for acceptance, our office will review the permit. If the permit is:

- Approved, the process of releasing the vending opportunity to the state will begin.
- Disapproved, our office will notify you of the Postal Service's decision in writing.

If no written notice is provided by the state, the Postal Service shall seek services with a commercial Food Management provider.

If you have any questions or concerns please contact me at (xxx) xxx-xxxx.

Sincerely,

Your Name

Your Title

August 2010

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Appendix C

Sample Application and Permit

SAMPLE APPLICATION AND PERMIT
U.S. Department of Education
Office of Special Education and Rehabilitative Services
Rehabilitation Services Administration
Washington, D.C.

APPLICATION AND PERMIT FOR THE ESTABLISHMENT OF A VENDING FACILITY ON FEDERAL PROPERTY AS AUTHORIZED BY P.L. 74-732, AS AMENDED BY P.O. 83-565 AND TITLE II OF P.L. 93-516 (RANDOLPH-SHEPPARD ACT), and Implementing Regulations, 34 CFR, Part 395

The _____ (designated state licensing agency) of the State of _____ requests approval of _____ (Federal Property Agency) to place a vending facility on the property located at _____.

SATISFACTORY SITE: It has been determined that this location meets the criteria of a satisfactory site as defined in 34 CFR 395.1(q). Any exceptions are documented in Attachment A.

TYPE, LOCATION AND SIZE OF FACILITY:

Type of facility (defined in instructions for Form ED-RSA-15):

Facility location

Facility size (floor plan, Attachment B).

The types of articles to be sold and services to be offered are enumerated in Attachment C. The fixtures and equipment for this facility, including the responsibility for the provision thereof, are set forth in Attachment D. The location, type and number of vending machines which constitute all or a part of this facility are noted in Attachment E. The facility will operate _____ days of the week from _____ A.M. to _____ P.M. commencing on _____.

MACHINE INCOME SHARING: The type and location of each vending machine located on this property and the specific income sharing provisions in 34 CFR 395.32 applicable to each such machine will be indicated in Attachment F. Vending machine income will be disbursed to the state licensing agency on at least a quarterly basis unless it is mutually agreed otherwise.

OTHER TERMS AND CONDITIONS: Both parties shall comply with 34 CFR 395.35. Any additional terms and conditions applicable to this location are included in Attachment G. This permit shall be issued for an indefinite period of time subject to suspension or termination on the basis of noncompliance by either party with any of the agreed upon terms and conditions of the permit. By mutual agreement the state licensing agency and the property agency/owner may terminate the permit after providing notice of the intended termination, including the reason therefore and supporting documentation to the other party. Both parties shall comply with all regulations issued in Title VI of the Civil Rights Act of 1964. Reason for denial of the application shall be set forth in writing to the state.

Approving Property Official

Approving Licensing Agency Official

Title _____
Date _____
August 2010

Title _____
Date _____

Attachments

INSTRUCTIONS FOR PREPARATION OF APPLICATION AND PERMIT FOR THE ESTABLISHMENT OF A VENDING FACILITY ON FEDERAL PROPERTY AS AUTHORIZED BY PL 74-732, AS AMENDED BY PL 83-565 AND TITLE II OF PL 93-516 (RANDOLPH-SHEPPARD ACT), and Implementing Regulations, 34 CFR, Part 395

Designated State Licensing Agency is the state agency designated by the Commissioner to issue licenses to blind persons for the operation of vending facilities on federal and other property.

Federal Property means any building, land or other real property owned, leased, or occupied by any department, agency or instrumentality wholly owned by the United States or by any department or agency of the District of Columbia, or any territory or possession of the United States.

Satisfactory Site as defined in 34 CFR 395.1(q) means an area fully accessible to vending facility patrons and having: (1) Effective on March 23, 1977, a minimum of 250 square feet available for the vending facility. However, if both the federal property managing department or agency and the State licensing agency agree, a vending facility smaller than the minimum size may be established; and (2) Sufficient electrical plumbing, heating and ventilation outlets for the location and operation of a vending facility in accordance with applicable health laws and building codes.

Any exceptions to the above definition of a "Satisfactory Site" are to be noted in Attachment A.

Snack Bar Facility. A facility engaged in selling limited lines of refreshment and prepared food items necessary for a light meal service. Included in this group are establishments which sell food and refreshment items prepared on or off the premises and usually are wrapped or placed in containers at point of sale. Customers may or may not be provided with on-site eating accommodations.

Dry/Wet Facility. All facilities which are not included under the other three types of facilities (cafeteria, snack bar, vending machine). Dry/wet facilities normally would merchandise for off-premise consumption a variety of articles, refreshment items, and services which are dispensed manually by the vendor and, in certain instances, by vending machines.

Facility Location. Specifies the exact location of the vending facility on the federal property.

Facility Size. The agreed-upon total square footage of this facility as defined in "Satisfactory Site" and a working drawing of the floor plan (Attachment B).

Types of Articles and Services to be Sold. By approving the type of facility, the federal property managing department or agency is also to some degree approving the sale of types of articles and services. However, the type of articles and services to be provided is determined by the state licensing agency in consultation with the federal property manager and is specified in Attachment C.

The blind vendor and the state licensing agency alone determine the specific articles or services to be sold at a vending facility.

The Fixtures and Equipment for the Facility, including the responsibility for the provision thereof, are set forth in Attachment D. All equipment such as display shelves and other major equipment and fixtures and the ownership of each item are to be listed in Attachment D.

The Location, Type, and Number of Vending Machines which constitute all or a part of this facility are to be noted in Attachment E. Section 1369.16 of the regulations, permit for the establishment of vending facilities, requires that prior to the establishment of each vending facility, other than a cafeteria, the number, location, and type of vending machines which constitute all or part of the facility are to be included in the permit issued to the state licensing agency.

Machine Income Sharing. Each vending machine on the property is to be noted in Attachment F as to the type of equipment and its location on the property.

As provided for in Section 395.32(e) of the regulations, the determination that a vending machine on federal property is in direct competition with a vending facility operated by a blind vendor is the responsibility of the on-site official responsible for the federal property of each property managing department, agency, or instrumentality of the United States, subject to the concurrence of the state licensing agency.

Sections 395.32(a) and (g) further specify that the on-site official responsible for the federal property of each property managing department, agency or instrumentality of the United States is responsible for the collection of, accounting for, and quarterly disbursement of vending machine income from vending machines on property under his or her control. It should be noted that the permit form provides a basis for other mutually agreed upon disbursement terms.

The vending machine income sharing provisions from machines on federal property are set forth in Sections 395.32(b), (c), (d) of the regulations in the following manner:

100 percent of all vending machine income from machines which are in direct competition with a vending facility operated by a blind vendor shall accrue to the state licensing agency or;

50 percent of all vending machine income from machines which are not in direct competition with a vending facility operated by a blind vendor shall accrue to the state licensing agency ; and

30 percent of all vending machine income from machines which are not in direct competition with a vending facility operated by a blind vendor shall accrue to the state licensing agency.

Other Terms and Conditions

Both parties shall comply with all the provisions of the regulations at 34 CFR 395.35. These enumerated terms and conditions require:

1. Issuance of the permit in the name of the applicant state licensing agency which shall:
 - a. Prescribe procedures necessary to assure that the selection of vendors and employees for the operation of the vending facility is without discrimination because of sex, age, creed, color, national origin, physical or mental disability, or political affiliation.
 - b. Assure that vendors do not discriminate against any person or persons in furnishing, or by refusing to furnish, to such persons the use of any vending facility, including all services, privileges, accommodations and activities provided thereby, and comply with Title VI of the Civil Rights Act of 1964 and the regulations pursuant thereto.
2. Issuance of the permit for an indefinite period of time subject to suspension or termination on the basis of noncompliance with agreed upon terms.
3. Provisions within the permit which specify that:
 - a. No charge will be made to the state licensing agency for normal cleaning, maintenance, and repair of the building structure in and adjacent to the vending facility area.
 - b. Any cleaning that is necessary for sanitation, and the maintenance of vending facilities and vending machines in an orderly condition at all times and the installation, maintenance, repair, replacement, servicing and removal of any vending facility equipment to be without cost to the department, agency, or instrumentality responsible for the maintenance of the federal property.
 - c. Articles sold at vending facilities operated by blind licensees may consist of newspapers, periodicals, publications, confections, tobacco products, foods, beverages, chances for any lottery authorized by state law and conducted by an agency of the state. Other articles or

services may be included as are determined by the state licensing agency, in consultation with the on-site official responsible for the federal property of the property managing department, agency, or instrumentality, to be suitable for a particular location. These articles or services may be dispensed automatically or manually and may be prepared on or off the premises in accordance with all applicable health laws.

- d. Vending facilities shall be operated in compliance with applicable health, sanitation, and building codes or ordinances.
- e. Installation, modification, relocation, removal, and renovation of vending facilities will be subject to prior approval and supervision of the on-site official responsible for the federal property of the property managing department, agency, or instrumentality and the state licensing agency, and that the costs of relocation of vending facilities shall be paid by the initiator of the request.

Any deviation from the regulations at 34 CFR 395.35 is to be included in Attachment G.