

SD BUSINESS ENTERPRISE PROGRAM
ADMINISTRATIVE MANUAL
TABLE OF CONTENTS

Section 1	Procedure for Evaluation & Acceptance	page 3
Section 2	Entry Criteria, Training Overview, and Licensing Criteria	page 7
Section 3	Assignment of Vendors	page 12
Section 4	Announcement Procedures for New and Vacant Facilities	page 14
Section 5	Operating Agreement	page 22
Section 6	Vending Facility Equipment and Fixtures	page 28
Section 7	Inventory and Petty Cash	page 32
Section 8	Collection of Set-Aside Funds	page 34
Section 9	Collection and Distribution of Vending Machine Income	page 36
Section 10	Resignation	page 37
Section 11	Extended Illnesses	page 38
Section 12	Death of a Vendor	page 40
Section 13	Abandonment of a Vending Facility	page 41
Section 14	Vendor Absence from Vending Facility	page 43
Section 15	Disciplinary Action and Termination	page 44
Section 16	Temporary Closure of a Vending Facility	page 49

ADMINISTRATIVE MANUAL
South Dakota Business Enterprise Program

October, 2014

Section 17	Access to SDBEP Information	page 51
Section 18	Vendor Competition	page 52
Section 19	Important Information File	page 53
Section 20	Minimum Standards for Operating of a Vending Facility	page 55
Section 21	Due Process	page 59
Section 22	Vendor Benefits	page 62
Section 23	Committee of Blind Vendors	page 68
Section 24	Scope of Authority and Administration	page 69
Section 25	Vendor Payment to Spouse, Family Members and Other Employees	page 71
Appendices		
A	BEP Food Service Job Description	page 72

SECTION 1

**SUBJECT: Referral and Vocational Evaluation and Assessment
Process**

- A. Division of Service to the Blind and Visually Impaired (SBVI) Rehabilitation Counselors shall refer interested, qualified individuals to the South Dakota Business Enterprise Program (SDBEP).
1. The Vocational Rehabilitation (VR) Counselor will be responsible for initial screening of interested consumers. The Vocational Rehabilitation Counselor shall screen candidates to assure that interested individuals meet or have the potential to meet entrance requirements defined in Section 2 of the Administrative Manual.
 - a. Consumers interested in becoming a vendor in the SDBEP must:
 - Be receiving vocational rehabilitation services;
 - Be legally blind by federal standards;
 - Be a resident of the United States and living in South Dakota;
 - Have good general health and the ability to perform strenuous physical tasks such as lifting and bending;
 - Verification that the individual has the ability and endurance to perform the tasks required of a BEP vendor;
 - Have a high school diploma or GED;
 - Be willing to complete BEP Vendor Training Program;
 - Be referred by their Vocational Rehabilitation (VR) counselor and submit an Applicant Packet.

Note: There may be situations when an individual is not currently receiving vocational rehabilitation services. With good cause, the requirement to be receiving vocational rehabilitation services could be waived, and the individual would submit an Applicant Packet directly to SDBEP.

Section 1 continued

- B. The decision to refer a consumer to the SDBEP is made mutually by the consumer and the VR Counselor based on the consumers interest, skills, abilities, aptitudes and personal choice.
- C. The VR Counselor should review and discuss the BEP Food Service Job Description with the consumer. The BEP Food Service Job Description can be found in Appendix A.
- D. Potential candidates for the SDBEP program are required to participate in an evaluation at the SD Rehabilitation Center for the Blind (SDRC), specifically for the purpose of assuring that food service management is the appropriate vocational choice for the consumer.
 - 1. Evaluation will include the following:
 - a. Assessment to determine aptitude and achievement in mathematics and reading;
 - b. Assessment of the consumers orientation and mobility skills;
 - c. Assessment of the consumers communication skills;
 - d. Assessment of the consumers independent living skills;
 - e. Assessment of consumers physical capacity to lift, bend, etc.;
 - f. Assessment of consumers potential need for assistive technology;
 - g. Any other appropriate professional tests such as intelligence tests, psychological tests, and vocational evaluation tests when indicated.
 - 2. SDRC staff will provide to the VR Counselor and SDBEP Program Manager a written summary of the consumer's performance and assessment results.
- E. The SDBEP Referral Package to be submitted by the VR Counselor should include the following:
 - 1. Eye report;

Section 1 continued

2. Proof of U.S. citizenship;
 3. Resume/work history/SDBEP application;
 4. Statement of consumer's orientation and mobility skills;
 5. SDRC written summary of consumer evaluation.
- F. The Rehabilitation Counselor shall submit to the BEP Administrator required reports accompanied by a recommendation and brief case history for the candidate referred. The counselor should include in the referral packet any additional evaluations completed for the individual's eligibility or rehabilitation plan development.
1. If a prospective BEP vendor candidate has previously received services from a rehabilitation center for the blind and there have been no major changes in vision or other areas which might impact independent functioning, it will not be necessary to repeat the assessment and evaluation. However, the VR Counselor should review final reports to ensure additional assessment in the areas listed in Section 1 are not needed.
 2. As needed, the SDBEP shall contact the Rehabilitation Counselor for additional information and discussion prior to interviewing the candidate.
- G. The candidate referred will be asked to interview with the SDBEP Program Administrator and at least the President of the Executive Committee for the Blind Vendors Committee or a designee, who will function as the Selection Committee.
1. Every effort will be made to have two blind vendor representatives selected by the Executive Committee of Blind Vendors present at the screening interview. If no members of the Executive Committee are available for the interview, the interview may be held with a minimum of two members, one of which must be the SDBEP Program Administrator.
 2. The interview shall be scheduled and arranged by the SDBEP Administrator.

Section 1 continued

3. The referring Rehabilitation Counselor shall be requested to attend the interview in order to meet with the Selection Committee, to review case history and evaluation reports, and to provide a recommendation.
4. Each candidate will be interviewed with attention given to specific skill development consistent with the areas identified in Administrative Manual Section 2(B).
5. It is the objective of the SDBEP to screen in all qualified candidates. If an individual does not meet established entry criteria, it will be determined whether rehabilitation services such as academic training, mobility training, work adjustment training or individual counseling could help to prepare the candidate for acceptance. If so, those services will be recommended to be completed prior to reapplication to the BEP.

G. Selection Committee Responsibilities

1. A majority of Selection Committee members should agree on acceptance of a candidate. All candidates must receive the approval of the SDBEP Program Administrator. Once accepted, the candidate will begin his/her training program and any additional services, as recommended, to address individual needs.
2. Records of application and the Selection Committee report shall be retained in the accepted candidate's file. If rejected, the Program shall retain a candidate's application packet and the Committee's report for a two-year period.
3. Upon request, the BEP Program Administrator and, as appropriate, other members of the Selection Committee shall be available to meet with any candidate and/or Rehabilitation Counselor to discuss a decision to accept or reject an individual referred to the SDBEP.

SECTION 2

Subject: Entry Criteria, Training Overview, and Licensing Criteria

A. Consistent with requirements of the Randolph-Sheppard Act, to become a licensed vendor, a candidate must be:

1. Blind - Not more than 20/200 central visual acuity in the better eye with correcting lenses; or loss of visual field such that the widest diameter subtends an angle no greater than twenty degrees as determined by a physician or optometrist skilled in the diseases of the human eye.
2. A citizen of the United States.
3. Certified by the Division of Service to the Blind and Visually Impaired, the State Licensing Agency, as qualified to operate a vending facility after satisfactory completion of all training requirements.

B. Eligibility for entry into training

1. A candidate must possess basic academic skills needed to run a business (minimum of 8th grade level for math and reading) including:
 - a. Ability to perform basic math including addition, subtraction, multiplication, division and percentages;
 - b. Ability to read either Braille or printed material, with or without use of such accommodations as optical character scanners or audio text;
 - c. Ability to write either in Braille, handwriting, or keyboarding;
 - d. Ability to perform or delegate all accounting practices required by federal, state, county, and city ordinances;
2. The candidate must be able to perform all physical activities demanded of a licensed vendor including:
 - a. Ability to lift 35 pounds;
 - b. Ability to stand for extended periods of time;
 - c. Ability to stoop, kneel and bend;

Section 2 continued

- d. Motor coordination to stock machines;
 - e. Ability to communicate with customers;
 - f. Ability to count change, either tactilely or visually;
 - g. Ability to identify paper currency, with or without a bill identifier with speech output;
 - h. Ability to travel independently.
3. Because customer service is the hallmark of a good vendor, the candidate must have good social interaction skills. Essential abilities include:
- a. Ability to deal with the public in a courteous manner;
 - b. Ability to develop and maintain a working relationship with others;
 - c. Ability to handle problems which might occur at the facility.
4. Communication Skills: Demonstrate ability to communicate effectively, orally and in writing. Candidates must demonstrate competencies in receptive and expressive oral and written communication. Candidates must exhibit appropriate interpersonal skills demonstrating ability to provide the required levels of customer service.
5. Mobility: Candidates must demonstrate an ability to travel independently while participating in an objective evaluation. Independent travel will include an assessment of ability to navigate in business and residential settings including large business complexes where applicable. Additionally, the candidate will demonstrate the ability to use public transportation independently where applicable.
6. Grooming: Candidates will meet acceptable standards of dress and personal hygiene as established by the Food and Drug Administration Food Service Sanitation Manual No. 78-2081 and the SDBEP Administrative Manual minimum standards required for operation of a facility. Candidates must present a professional appearance.

Section 2 continued

7. Employment background and references: Employment history and professional and personal references should support a candidate's ability to perform as a vendor. Business knowledge and experience are not required for entry into the BEP but may be considered in terms of a candidate's needs to complete specific portions of the training program. A credit check and background check will be required prior to assignment to a vending facility or route.
 8. Psychological Evaluation: A psychological or substance abuse evaluation may be considered if deemed appropriate. If performed, the evaluation should confirm a candidate's ability to learn the required material in order to perform effectively as a vendor. If a psychological evaluation is not performed, other types of assessments which document sufficient learning capacities may be submitted.
 9. Interpersonal Skills: A candidate must demonstrate the capacity to maintain appropriate professional relationships with others in a business environment. The applicant must demonstrate an ability to maintain a positive and friendly demeanor with the public. Appropriate and positive interpersonal skills may be assessed through a psychological evaluation, if conducted. If a psychological evaluation has not been completed, other background material should be presented to support an individual's ability to maintain courteous and professional relationships in the course of managing a business.
 10. Ability to use required equipment: Candidates should demonstrate the ability to use electronic calculating devices and other equipment and assistive technology, as indicated, in order to proficiently manage a vending facility.
- C. Training Curriculum: If accepted, an individual will enter a training program. Training will consist of course work provided by the SDBEP Program Administrator and on-the-job training with a current BEP vendor(s), and possibly other locations.

Section 2 continued

1. A Training Plan will be developed by the SDBEP Program Administrator, with input from the VR Counselor and trainee.
2. If results of the assessment and evaluation at the South Dakota Rehabilitation Center indicate the candidate is unable to perform math and reading at an eighth grade level, completion of course work and testing to validate that the candidate has obtained this level of proficiency will be required in order for the candidate to proceed with training to become a BEP Vendor.
3. If the trainee has no experience in running a small business or if the size of the facility warrants additional training, completion of the following courses at a Community College, Postsecondary Technical Institute or comparable education facility should be considered:
 - a. Marketing
 - b. Small Business Management
 - c. Basic Accounting
4. Successful completion of BEP Vendor Training conducted by the SDBEP is required. Segments of the Training include:
 - a. Randolph-Sheppard Act and the SLA
 - b. Business Relationships
 - c. Business Math
 - d. Safety and Sanitation
 - e. Federal and State Tax Forms and Regulations
 - f. Financial Reports
 - g. Merchandising and Marketing
 - h. Inventory Management
 - i. Food Service Operation
 - j. Vending Machines
 - k. Business Plan Development
 - l. Vendor License and Facility Permits
 - m. BEP Vendor Benefits

The candidate must demonstrate the ability to comprehend and apply

Section 2 continued

information received in training. The list above will be customized for each applicant based on need. It is anticipated that the BEP Vendor Training coursework will take 1 – 3 weeks, depending on the trainee. The course work will include time with the BEP Program Administrator, as well as completion of online modules. A pre-test and quizzes will be given. The trainee will need to plan on time spent in Pierre for portions of this training. VR Counselors will need to authorize travel expenses for the time spent in Pierre.

Candidates must also become certified by the National Restaurant Association in ServSafe.

5. Candidates will participate in on-the-job training with experienced vendor(s) after completion of the coursework. On-the job-training will consist of 4 weeks with one or more current vendors. The training must be successfully completed prior to certification to become a SDBEP Vendor. Additional time may be utilized if recommended. A satisfactory or better rating must be received from the SDBEP licensed vendor(s). To receive a satisfactory rating, the candidate must be able to demonstrate, in a hands-on situation as well as final exam, the learning acquired during the training period.
6. Upon successful completion of the training, the candidate will be considered certified to become a vendor. He/she will either be assigned a vending facility or route, or will be placed on the Ready for Assignment List.

SECTION 3

Subject: Assignment of Vendors

A. Ready for Assignment List

1. Vendors will be ranked on the Ready for Assignment List using the order of their licensing or certification dates.
2. If two or more candidates complete their training and are certified or licensed on the same day, the following procedure will be used to rank the vendors on the Ready For Assignment List. The higher ranking shall be awarded to the vendor whose referral to the SDBEP was received first by the SDBEP. If the SDBEP received both vendor referrals on the same day, the ranking of the vendors in question shall be done by random drawing.
3. A vendor may remain on the Ready for Assignment List for a period of two years with all rights as a certified or licensed vendor.
4. A vendor remaining on the Ready for Assignment list for a period of two years without submitting a request for an available facility will be determined to be ineligible for a facility and will be notified of his/her ineligibility by the SDBEP Program Administrator.
5. A vendor notified of ineligibility must contact the SDBEP in writing within 15 calendar days to request reinstatement. Failure to contact the SDBEP in writing within the 15 day period will result in termination of the vendor's license or certification.
6. If a vendor submits a written request for reinstatement, he/she may remain on the Ready for Assignment list for one additional year.
7. At the time the vendor requests reinstatement, it will be determined by the SDBEP whether the vendor requires any additional training in order to maintain skills required of a vendor. If additional training is recommended, the vendor shall be notified and required to update any essential skills.

Section 3 continued

8. If, at the end of the one additional year on the Ready for Assignment list, facilities have become available and the vendor has not entered an operating agreement, his/her certification shall be terminated.

B. Seniority List

1. The SDBEP shall establish, maintain and distribute a seniority list to all vendors no later than January 31st of each year. Seniority shall be determined by assessing the total time a vendor has accrued under an effective operating agreement.
2. The seniority list shall be a comprehensive listing of all licensed vendors ranked according to seniority earned.
3. If a vendor's license is terminated, the vendor shall forfeit all earned seniority and his/her name shall be removed from the seniority list. Seniority will not be forfeited if vendor prevails after exhausting all appeals.

C. Designation of Vending Sites/Routes

1. The SDBEP will designate each vending site and route as either full-time, half-time or part-time. Full-time sites and routes are designated as full-time if thirty-two (32) or more hours are required per week to complete the tasks necessary to operate the site or route successfully. A site or route will be considered half time if twenty (20) to thirty-one (31) hours are required per week to complete the tasks necessary to operate the site or route. If less than twenty (20) hours are required for the site or route, it will be designated as part-time.

SECTION 4

**SUBJECT: The Announcement Procedures for New and Vacant
Facilities**

A. Announcement Procedures

1. Announcements for a vending facility, which has become available for assignment, shall be sent to all eligible licensed and certified vendors.
2. The announcement shall contain the following information:
 - a. Date facility is available;
 - b. Type of facility;
 - c. Financial data for current fiscal and preceding year to include: gross annual sales, vending income, total facility proceeds, purchases and payroll;
 - d. Facility personnel: number of current or projected;
 - e. Building population;
 - f. Hours of operation;
 - g. Holidays;
 - h. Public transportation;
 - i. Miscellaneous information;
 - j. Program contact person and current manager;
 - k. Cut-off date and time for submitting request. A minimum of two weeks will be allotted for submission of requests.
3. Attachments to the Announcement:
 - a. Request for Assignment: The vendor may submit his/her request for the available facility or route as a primary, satellite or annex location. The final assignment classification will be based on the highest order selected.
 - b. Minimum Assignment Criteria which are specific to the facility to be assigned.
 - c. Other information as needed.
4. Withdrawal of Request

Section 4 continued

- a. The vendor may withdraw his/her request up to the cut-off date and time.
 - b. If the successful vendor refuses to accept the assignment of the facility without good cause, he/she will not be permitted to submit a request on other facilities for twelve months following the closing date of the announcement.
5. In the event that the vendor assigned the vending facility refuses to accept the facility, the next senior and qualified vendor submitting a request shall be assigned the facility.

B. Definitions

1. Primary Facility - A primary vending facility is a facility (or route) acceptable to a vendor as his/her main facility and will remain assigned to the vendor as per the terms of the Operating Agreement and Permit/Contract.
2. Satellite - A satellite is a vending facility (or route) which a vendor agrees to accept on a temporary basis. Satellites shall be awarded to vendors for a minimum of 12 months time. A vendor must be under an effective operating agreement for a primary facility in order to submit a request for another facility as a satellite location.
3. Annex - An annex is a vending facility or route, which is unacceptable to vendors in the SDBEP as either a primary or satellite facility, but is acceptable given that such facility will be operated by a vendor for a 24 month period so long as the vendor remains on his/her present primary facility.

Note: Every effort will be made by the SDBEP not to establish a satellite or annex vending facility when it appears that the establishment of such facility will adversely affect the SDBEP or a neighboring vending facility. However, in cases where the Property Management Agency has requested the establishment of vending facilities a decision will be made by the SDBEP Program Administrator regarding the establishment of facilities which are likely to be operated as satellites or annexes.

Section 4 continued

- C. Assignment Criteria - In order to be assigned a vending facility the vendor must:
1. Meet the specific criteria established for that facility by the current vendor, a representative of the Executive Committee of Blind Vendors and the BEP Program Administrator.
 2. Meet the following general criteria:
 - a. Satisfy all financial obligations incurred from the operation of the current facility or past facilities;
 - b. Receive an overall passing score or mark on the last two health inspections of the current facility, unless failing marks or scores on the last two health inspections are a result of circumstances beyond the control of the vendor.
- D. Assignment Procedures for Vending Facilities
1. The SDBEP shall send announcements by first class mail to all licensed vendors and certified individuals on the Ready-for-Assignment List. The announcement shall contain a statement of the assignment criteria which a requestor shall meet in order to qualify for assignment on the basis of seniority, qualifications and the last date for requests. The SDBEP with the active participation of the Executive Committee of Blind Vendors shall establish the time period between the mailing of the announcements and the last date for requests allowing a minimum two week period.
 2. After the last date for requests, the SDBEP shall submit to the Executive Committee the name of the vendor recommended for the assignment in accordance with the time period specified in the Administrative Manual. The vendor recommended shall be the most senior qualified requestor. If the recommended vendor is not the most senior requestor, the BEP Program Administrator shall also submit to the Executive Committee a report identifying any requestors with more seniority and the reasons for finding the requestors unqualified. The SDBEP shall simultaneously notify

Section 4 continued

each requestor with more seniority who is found unqualified of the reasons for the finding and the vendor's right to appear before the Executive Committee to show that the vendor is qualified.

3. Upon receipt of the SDBEP's recommendation, the Executive Committee shall schedule a meeting with each more senior requestor found unqualified if the requestor wishes to show that he or she is qualified.
4. The Executive Committee shall agree or disagree with the SDBEP's recommendations within seven (7) calendar days after receipt of the recommendation, unless the time is extended by mutual agreement. If the Executive Committee does not respond within this period, the SDBEP's recommendation shall be effective. If the Committee disagrees with the SDBEP's recommendation, the SDBEP and the Committee shall hold a conference to resolve the disagreement. If the SDBEP and the Committee do not resolve the disagreement, the SDBEP's recommendation shall be effective. Dissatisfied applicants may appeal the decision of the SDBEP as stated in Section 21 of this manual.
5. The successful vendor must agree to run his/her current primary facility for a period of up to thirty (30) calendar days after the signing of the operating agreement for their new primary facility.

E. Awarding of Satellite Vending Facilities

1. If there are no requests for a facility as a primary facility, any applications for the facility as a satellite will be reviewed. First priority in assignment shall be given to the most senior qualified requestor who can demonstrate that he/she has the capacity to efficiently run the facility and is available to be present at the satellite routinely. Such requestor shall also possess the minimum qualifications required to operate the vending facility in accordance with assignment criteria.

Section 4 continued

2. Satellites shall be awarded to vendors for a minimum period of twelve months. If at any time after this twelve (12) month period, an unassigned qualified certified or licensed vendor in the SDBEP expresses an interest in the satellite and the vendor who holds it is willing to relinquish it, it may be turned over to the qualified vendor immediately upon allowing time for making the proper arrangements.

At the end of the twelve month period, if there is no interest demonstrated by assigned or unassigned vendors in the satellite as a primary location, the vendor who currently holds it may continue to operate it until such an interest is forthcoming.

3. Within the 30-day notice period, the vendor with the satellite location must relinquish either the satellite or the primary facility which he/she is currently operating. If the vendor elects to keep the primary location, the satellite will be assigned to the most senior vendor meeting the minimum qualifications for its operation.
4. If the vendor elects to release the primary location, written notice to this effect will be transmitted to the SDBEP within five calendar days after commencement of the 30-day notice period. In such case, the primary location which was released by the vendor will be offered to all vendors in the SDBEP in accordance with the normal announcement process and the vendor shall retain the satellite facility as his/her primary facility.
5. Any vendor with a satellite location shall go to the bottom of the seniority list in terms of awarding any additional satellite locations.
6. If a vendor currently operating a satellite is interested in bidding on another satellite and there is more than one interested bidder, the vendor must relinquish the satellite, which he/she is currently operating in order for his/her request to be considered. Upon written notice to this effect, the vendor's resignation will be effective immediately with the understanding that the vendor will continue to operate the relinquished satellite for an additional

Section 4 continued

45 day period.

7. If the vendor is successful in acquiring the new satellite on which he/she bid, the satellite that the vendor relinquished will be re-advertised. However, if a vendor who resigned one satellite for the purpose of applying to another is not successful in the assignment process such vendor may rescind the notice of resignation and continue to operate the original satellite location.
8. If a vendor who is currently operating both a primary facility and satellite transfers to another primary facility and cannot demonstrate that he/she has the capacity to continue to visit the satellite routinely, and manage both the primary and satellite facilities effectively, the vendor shall relinquish the satellite and it shall be re-advertised.
9. Vendors who operate satellite locations shall be responsible to maintain and submit separate records concerning the operation of each facility to the SDBEP as well as the monthly set aside fee payment by separate checks.
10. Vendors who are operating satellite locations shall be responsible to provide adequate liability, casualty, worker's compensation, and unemployment insurance for the facility and employees of the satellite location.
11. If a vendor who is operating a satellite is suspended from a primary location, such suspension shall apply to the operation of the satellite as well.
12. During such period of suspension, any vendors in the SDBEP may acquire the satellite location if the suspended vendor has operated the satellite for a time period greater than 12 months.
13. If for any reason a vendor who is operating a satellite location wishes to relinquish that facility, the vendor shall be required to notify the SDBEP in writing. The vendor will be required to operate the satellite location up to an additional 45 calendar day

Section 4 continued

period following the receipt of the notification.

F. Awarding of Annex Vending Facilities

1. If there are no requests for a facility as a primary or a satellite, requests for the facility as an annex will be reviewed with first priority being given to the most senior qualified vendor. An annex is awarded on a twenty-four (24) month period. If, at the end of the 24 month period there is an unassigned qualified certified or licensed vendor who is interested in acquiring the annex as a primary location, the vendor who is holding the facility shall be given thirty (30) days notice by the SDBEP.
2. Vendors who operate annex locations shall be responsible to maintain and submit separate records concerning the operation of each facility to the SDBEP as well as the monthly set aside fee payment by separate checks.
3. Vendors who are operating annex locations shall be responsible to provide adequate liability, casualty, worker's compensation, and unemployment insurance for the facility and employees of the annex location.
4. At the time a vendor operating an annex vacates his/her primary vending facility, the primary and annex vending facilities will be re-announced as two separate facilities.

G. Available Facilities Receiving No Applications

1. If, after the announcement process has been exhausted, no vendor is interested in operating the facility as a primary, satellite or annex, it should be closed unless it is determined by the SDBEP that the income from the facility can be increased sufficiently to make the location attractive enough to be re-announced as a primary facility, a satellite, or an annex.
2. In such case, the SDBEP should operate the facility as a

Section 4 continued

"Facility or Route No Manager" at no expense to the SDBEP.

3. If it is determined it is not possible to operate the vending facility under these conditions, it shall be closed.

SECTION 5

SUBJECT: Operating Agreement

Important: A copy of the Facility Permit or Facility Contract must be attached to this Agreement.

When all copies are signed and returned, distribute as follows:

Operating Agreement:

- Facility or Route file
- Personnel file of Vendor
- One copy to Vendor

**AGREEMENT FOR OPERATION OF A VENDING FACILITY THE UNDER
RANDOLPH-SHEPPARD ACT**

BETWEEN

State Licensing Agency

and

Licensed Blind Vendor

THIS AGREEMENT entered into this _____ day of _____,
20____, by and between

the _____,
State Licensing Agency (hereinafter, SLA),

and _____,
Licensed as a Blind Vendor under the Randolph-Sheppard Program (herein
after, Vendor) by the SLA, WITNESSETH:

WHEREAS, the SLA has been granted a permit by
_____ for the operation of a vending
facility by a licensed blind vendor under the Randolph-Sheppard Program
(hereinafter, Permit) on the

_____ located

At _____, a copy

of which permit is attached hereto and made a part hereof; and,

WHEREAS the SLA has offered the vendor the opportunity to operate
the vending facility under the terms and conditions hereinafter set forth; and

WHEREAS, the Vendor has agreed to undertake the operation of the
vending facility under the terms and conditions hereinafter set forth; and

ADMINISTRATIVE MANUAL
South Dakota Business Enterprise Program

October, 2014

WHEREAS, the parties do not intend to derogate in any way from responsibilities and rights imposed and granted by applicable Federal, State, or local laws or regulations by this agreement;

NOW, THEREFORE, in consideration of the premises, it is mutually agreed as follows:

A. THE SLA.

1. The SLA will attempt to provide and maintain suitable equipment and accessories sufficient to enable the vendor to commence operating the business authorized by the permit.
2. The SLA will furnish an adequate and a suitable initial stock of merchandise and petty cash to each vending facility.
3. The SLA will maintain the equipment at the vending facility in good repair, according to the rules of the Vendors' Manual, and will replace obsolete and worn out equipment as necessary.
4. The SLA will provide, or will provide for, supervisory and management services necessary for the efficient operation of the vending facility.
5. The SLA will attempt to provide staff to conduct field audits. If this is not possible, SLA may contract with a private firm to conduct the audits.

B. THE VENDOR.

1. The Vendor will devote full time and attention to said vending facility and during established business hours daily or on Sunday when necessary to be on duty, to persevere in the undertaking, to apply their best energies to work, and not to abandon the facility without due written notice to and consent by SLA. In the event that illness prevents the Vendor from working, the Vendor will see that notice is given to SLA at once so that they may attempt to arrange for the facility to remain in operation.
2. The Vendor will operate the vending facility business on a cash basis except for such credit accounts as may be established or authorized by the SLA.

3. The Vendor will be accountable to the SLA for the proceeds of the business of the vending facility, and will handle the proceeds, including payments to suppliers and deposit of funds, in accordance with instructions from the SLA.
4. The Vendor will carry on the business of the vending facility in compliance with applicable health laws and regulations and the Vendors' Manual.
5. The Vendor will maintain a neat business-like appearance while working at the vending facility, and will conduct the facility in an orderly, business-like manner.
6. The Vendor will take proper care of the equipment of the vending facility, and will make alterations or changes therein only with the written approval of the SLA.
7. The Vendor will notify the SLA a reasonable time in advance of taking any voluntary leave from the vending facility, and as soon as possible with respect to any involuntary leave.
8. The Vendor will keep daily records of purchases, sales, miscellaneous expenditures and cash deposits, as well as monthly and/or quarterly inventory records, and submit records to Service to the Blind & Visually Impaired at such time and in such form and manner as may be required by SBVI.
9. The Vendor is responsible for correctly completing the check register and Operators Deposit Sheet and submitting them to the SLA via the designated management services entity. The Vendor is also responsible for balancing his/her business checking account. Monthly bank statements should be submitted to the designated management services entity. Where appropriate, the following will also be completed by the Vendor: Worker's Compensation, Sales Tax, Form 941 Employers Quarterly Federal Tax Return, Form 940 Employers Annual Federal Unemployment (FUTA) Tax Return, State of SD Employer's Quarterly Unemployment form, W-2 Wage and Tax Statements, and W-3 Transmittal of Wage and Tax Statements.

C. GENERAL

1. The business to be carried on at the vending facility will be limited to that specified and authorized in the permit.
2. The right, title, and interest in and to the equipment of the vending facility, the stock in trade, and funds on hand are vested in the SLA, and will be left at the vending facility or turned over to the SLA on the termination of this agreement for any reason by either of the parties. In such an event the fair market value of the Vendor's interest will be determined by the SLA and paid to the Vendor or to the Vendor's heirs or assignees. Damaged or dead stock will not be claimed on the ending inventory.
3. The monthly income of the Vendor shall be the net income of the business of the vending facility for the period in question, less the funds which must be set aside, as established in writing by the SLA pursuant to CFR 34, Section 395.9 of the Randolph-Sheppard Act.
4. Rebates, commissions, or bonuses received by the Vendor from suppliers are, and must be, accounted for as income of the vending facility. Vacation leave, sick leave, fringe benefits, fair minimum return, and reimbursements for business expenses are also income of the vending facility. Under no circumstances are such funds to be treated as the separate, personal funds of the Vendor.
5. A vendor may not take merchandise or meals from his/her vending facility for personal use or for use by family unless vendor pays for the merchandise or meal by personal check at cost price plus sales tax. The amount of this payment would then be indicated as sales. If vendor chooses not to immediately pay for merchandise or meals, the sales must still be indicated on the Daily Cash Sheet and also indicated as a personal withdrawal equal to cost price plus sales tax. Failure to pay sales tax and set-aside on these earnings will be reported to the Department of Revenue.
6. Personal expenses may not be charged to your vending account. (Example: Personal long distance phone calls, food, food products, insurance, etc.) In the event personal expenses are paid from vendor's business account, vendor must indicate the expenditure on his/her

ADMINISTRATIVE MANUAL
South Dakota Business Enterprise Program

October, 2014

Daily Cash Sheet or Check Disbursement Summary and list a corresponding Personal Withdrawal in an equal amount.

7. The business and premises of the vending facility shall be covered by public liability insurance and any such other insurance as will protect the Vendor, anyone employed by the Vendor, and the SLA, against losses and claims arising out of the conduct of the business of the vending facility. The cost of such insurance shall be a cost of operating the business of the vending facility and taken into account as such in determining the net proceeds of the business.

8. This agreement may be terminated at any time by the Vendor, by providing written notice to SLA ninety (90) days in advance. If the Vendor fails to give adequate notice, a fine of \$300.00 will be assessed against the Vendor. It may be terminated by the SLA if the business of the vending facility is not conducted in accordance with this agreement, or with applicable Federal, State, or local laws and regulations.

DEPARTMENT OF HUMAN SERVICES
SERVICE TO THE BLIND AND VISUALLY IMPAIRED
BUSINESS ENTERPRISE PROGRAM

Date_____

By _____
SECRETARY OF DEPARTMENT OF HUMAN SERVICES

Date_____

By _____
DIVISION OF SERVICE TO THE BLIND AND VISUALLY IMPAIRED

Date_____

By _____
VENDOR

SECTION 6

SUBJECT: Vending Facility Equipment and Fixtures

A. Title to Equipment and Fixtures

1. The SDBEP shall retain rights, title and interest in all SDBEP equipment provided.
2. The SDBEP shall have the exclusive authority to control the transfer and disposal of equipment as it deems necessary.

B. Facility Modifications

1. The vendor will make no deletions, additions, or modifications to the facility in the form of equipment or fixtures without prior authorization from the SDBEP and facility administration.
2. Any unauthorized modifications shall be removed at the personal expense of the vendor.
3. Any cost incurred to put the facility back to the original condition after removing such modifications will be at the vendor(s) personal expense.

C. Maintenance and Repair of Equipment

1. Vendor Responsibility

- a. The vendor is responsible for maintaining equipment in a safe, clean and sanitary condition at all times. Vendors are required to perform routine maintenance tasks necessary to keep equipment in working order. These include, but are not limited to, lubricating moving parts, keeping refrigerator compressor coils clean and free of dust, assuring that electrical equipment is properly plugged in and turned on and off as required, and checking the operation of equipment to assure that it is in satisfactory working order.
- b. If a vendor determines that SDBEP equipment is in need of repair or maintenance services, it shall be his/her responsibility

Section 6 continued

to notify the BEP Program Administrator to obtain required pre-authorization before obtaining services.

- c. Prior to requesting repairs, the vendor should first assure that a repair call is necessary by performing routine checks such as: assuring the circuit breaker is not tripped, the unit is plugged in, any reset buttons have been tried, on/off switches are in correct positions, vending machines are not pushed tight against walls, condenser coils are clean and clear of dust and debris, all moving parts are free from obstruction, and refrigerators and freezers are not over-filled, obstructing free flow of air.
- d. Before obtaining repair services, the vendor shall contact the SDBEP Program Administrator to obtain a control number authorizing the repairs or maintenance required. At this time it should be determined if the equipment is under warranty and should be repaired through the manufacturer.
- e. All repair bills submitted by a vendor to the SDBEP for payment must contain:
 - Signature of the vendor or an authorized representative and signature of the repairperson;
 - A complete description of the work performed;
 - A breakdown of charges for the work performed;
 - The vending facility;
 - The control number provided by the SDBEP Program to authorize the repairs;
- f. The repair will be deemed the vendor's responsibility when:
 - The repair is needed due to negligence on the part of the vendor or his/her employee;
 - It is clear that the equipment was used for a purpose or in a manner other than it was intended;
 - Abuse of the equipment is evident;
 - The equipment is owned by the vendor rather than the SDBEP;
 - The vendor has not obtained a work order number to

Section 6 continued

authorize repairs;

- The vendor did not provide appropriate preventative maintenance and/or service to prevent machine failure.
- g. If it is determined, between the vendor and SDBEP, that the vendor needs equipment for the operation of his/her vending facility and the SDBEP does not have funds to make the purchase, the vendor may do so according with the policies of this Administrative Manual.
- h. The vendor will be responsible for extra expenses such as reverse osmosis systems and other non-essential equipment or services as a business expense.
- i. Each vendor is responsible for keeping a maintenance and repair log for each of their vending machines, as well as large equipment such as commercial freezers, refrigerators, etc.

2. SDBEP Responsibilities

- a. The SDBEP is responsible for assuring that all SDBEP owned equipment is functional and in good repair.
- b. Costs incurred for repair of equipment owned by the SDBEP shall be the responsibility of the SDBEP when preauthorized.
- c. Payment shall be approved by the SDBEP when the repair or maintenance was pre-approved and authorized by the SDBEP as evidenced by the provision of a work order number.
- d. If a dispute arises regarding the maintenance, repair or replacement of equipment, the SDBEP Program Administrator shall have the decision making authority.

D. Transfer of Equipment

- 1. If the SDBEP transfers a piece of equipment from one facility to

Section 6 continued

another or into storage, the vendor shall be provided 48 hours notice prior to pick up.

2. It is the vendor's responsibility to have the equipment properly cleaned prior to the scheduled pick-up.
3. If additional cleaning is required the vendor releasing the equipment shall be responsible for the expense.

E. Equipment Inventory and Replacement.

1. The SDBEP will maintain an inventory of equipment assigned to each vending facility and route and will maintain a file with the service history on each piece of equipment owned by the SDBEP.
2. The SDBEP will prepare and maintain a replacement schedule of equipment. Replacement priority shall be given to equipment in service for the longest period of time, to equipment with the most extensive service records and to equipment which may not be cost effective to repair and maintain.
3. The vendor shall be responsible to take a physical inventory of the SDBEP equipment at his/her facility annually. This physical inventory shall be submitted to the SDBEP office no later than June 30 of each year.

SECTION 7

SUBJECT: Beginning Inventory and Petty Cash

A. Initial Petty Cash and Inventory

1. The SDBEP will provide the initial stock of merchandise and petty cash for the operation of a vending facility or route.
2. The vendor who is assigned to such facility or route is accountable for the inventory and petty cash supplied by the SDBEP.
3. The vendor is responsible for the petty cash and is obligated to replace the petty cash if it is lost or stolen from the vending facility or route.
4. The SDBEP will maintain title to all stock and petty cash.

B. Transfer of Saleable Stock

1. At the time a vending facility or route is transferred from one vendor to another, the SDBEP shall arrange to have the physical inventory taken. Both the incoming and outgoing vendors or their designated representatives should be present at the time the final inventory is taken prior to transfer of the merchandise and petty cash to the incoming vendor.
2. In the case of extended illness, abandonment, or the death of a vendor and in the absence of any family representative, the SDBEP Program Administrator will appoint a representative to protect the inventory assets of the unrepresented vendor and the SDBEP.
3. Within thirty (30) calendar days after completion of physical inventory the outgoing vendor will make available to the SDBEP the current wholesale value of the items contained in the inventory. A vendor with an outstanding inventory report due to the SDBEP will not be allowed to apply for an available facility.
4. The SDBEP will provide to the incoming vendor the priced-out inventory report within fifteen (15) days of being delivered to the

Section 7 continued

SDBEP.

5. In the event that the wholesale cost of a particular item cannot be determined, the SDBEP will assign a fair price which is equitable to both parties. Disagreements will be settled by the SDBEP Program Administrator who shall be the final authority.
 - a. No value shall be assigned to any unit of inventory determined to be unsafe by the SDBEP.
 - b. The incoming vendor may refuse to accept any unit of inventory that is not fit for sale and whose claim is considered valid. The outgoing vendor shall remove items that are not fit for sale from the inventory by the last day of business.
 - c. Upon completion of the inventory and assignment of cost value to each item, a statement will be attached to the inventory signed by both the outgoing and incoming vendor that they are in agreement with the listed inventory and the prices assigned. The SDBEP Program Administrator will sign this statement certifying this agreement. This will constitute the final agreed upon inventory.

C. SDBEP Responsibility

1. The SDBEP shall reimburse the vendor who had the facility for any inventory increases within forty-five (45) days of receipt of final signed inventory settlement documents by vendor and counselor.
2. Any decrease from the vendor's opening inventory shall be paid to the SDBEP by the outgoing vendor within forty-five (45) days from final signed inventory settlement documents by vendor or counselor.

SECTION 8

SUBJECT: The Collection of Set-Aside Funds

- A. The SDBEP will set aside, or cause to be set aside from the net proceeds of the operation of vending facilities, funds for the purposes of:
1. Maintenance and replacement of equipment;
 2. Purchase of new equipment;
 3. Management services;
 4. Establishment and maintenance of retirement or pension funds, health insurance contributions, and provisions for paid sick and vacation leave. (If it is so determined by a majority vote of blind vendors licensed by the SDBEP, after SDBEP provides to each vendor information on all matters relevant to such proposed purpose.)
- B. Rest Area Income:
1. All income derived from vending provided at the rest areas along Interstates 29 and 90 within the borders of South Dakota shall be used solely for the purpose of support of the Set Aside Fund. This represents all rest areas under the jurisdiction of Service to the Blind and Visually Impaired as the State Licensing Authority in South Dakota. The income from the rest areas is the major contributor to the Set Aside Fund which is used for the purposes outlined above.
- B. The State Licensing Agency has established the following schedule for the amount of funds to be set aside.

Set Aside Assessment:

1. The set-aside assessment will be calculated on fifteen (15) percent of the monthly net profit of the business.
2. The vendor of each vending facility shall pay his/her set-aside fees on a monthly basis. The monthly payment for the set-aside fees is within thirty (30) days of the date of the set-

Section 8 continued

aside statement. If the set-aside fee has not been paid by the due date, there will be a 12% late fee assessment on the amount due according to South Dakota Codified Law (SDCL 54-3-16), and Department of Human Services policy. If the set-aside fees are not paid in more than one consecutive month, the 12% late fee will continue to be assessed on all past due amounts including any previous late fees assessed. If an account is more than 90 days past due, it will be turned over to a third party vendor for collections services, and an additional collection fee will be assessed for this service in addition to any late fee penalties. In addition, no money will be expended from the set-aside account for that vendor. This includes vacation, sick leave, insurance, equipment repairs and equipment purchase and replacement.

3. The amount due is determined by the following: Vendor will pay into the set-aside an amount equal to 15% of the monthly net income. If a vendor has \$0.00 net income or has a net loss at the end of the month, there will be no set-aside assessment for that operating month.

Here is an example of how the payment policy works: If a vendor owes \$100.00 for the month of June 2011, they should receive the statement dated July 25, 2011; therefore the fee would be due by August 25, 2011. If the vendor has not paid the set-aside fee prior to August 25, 2011, a late penalty will be assessed at the rate of 12%. In this example, the July 2011 payment due would total \$112.00. Further, if no payment is made in September 2011, and assuming the August 2011 set-aside statement assessed an additional \$100.00, then a payment for the July & August assessments that would be due in October would total \$237.44 (July statement assessment of \$125.44 plus August statement assessment of \$112.00. Please keep in mind that the September statement assessment would also be due in October). Additionally, this example takes into account that the vendor has made a payment in July, based upon their June statement.

SECTION 9

SUBJECT: Collection and Distribution of Vending Machine Income

- A. Definition: "Vending Machine Income" means receipts (other than those of a blind vendor) from vending machine operations on federal or other property after deducting the costs of goods sold (including reasonable service and maintenance costs in accordance with customary business practices of commercial vending concerns).

- B. All vending machine services established on federal, state, and other property by the SDBEP shall be by written contract. Such contract shall specify the responsibilities of both the SDBEP and contractor in implementing the vending machine service and shall specify those other terms and conditions under which the contract has been awarded.

- C. Distribution of Machine Income
Each vendor in the SDBEP who is eligible to receive vending machine income on federal, state or other property is subject to the average net income limitations as specified by Federal regulations in 34 CFR 395.8(a).

SECTION 10

Subject: Resignation

- A. When a vendor resigns from a vending facility or route, the vendor shall give the SDBEP written notice at least ninety (90) calendar days in advance of the effective date of resignation unless the vendor is reassigned to another vending facility. The SDBEP may waive this requirement in an emergency. If a vendor fails to comply with this requirement, SDBEP may terminate the vendor's license and the vendor shall be disqualified from reapplying for a license for a two (2) year period. In addition, if a ninety (90) day notice is not given, the vendor will be charged a \$300.00 penalty for not providing a ninety (90) day notice.
- B. Voluntary resignation from a vending facility or route without good cause shall constitute grounds for termination of the vendor's license and the vendor shall be disqualified from reapplying for a license for two (2) years.
- C. When a vendor resigns from the SDBEP, the SDBEP shall terminate the vendor's license.
- D. A tendered resignation from a facility or route, or from the SDBEP, may be withdrawn without penalty up until the closing bid date for the vendor's facility or route.
- E. If the withdrawal of resignation from a facility or route is received after the closing bid, the vendor shall be placed on the ready for assignment list at his/her current level of seniority.

SECTION 11

Subject: Extended Illness

Definition: A vendor shall be considered to be on extended sick leave if a health condition requires the vendor to be absent from his/her facility or route for a period extending beyond ten consecutive working days.

A. Documentation:

It shall be the vendor's responsibility to notify the SDBEP of his/her absence due to an extended illness. The vendor shall be responsible for providing the SDBEP with 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 or Route Operation:

The vendor shall be responsible for assuring the continuous operation of his/her facility or route consistent with the requirements of the Operating Agreement and the Permit/Contract. It shall be the vendor's responsibility to notify the SDBEP of the arrangements made for facility or route operation during his/her absence.

C. Termination:

Should a vendor fail to operate his/her facility or route in accordance with his/her Operating Agreement and/or Permit/Contract while on extended sick leave, the Operating Agreement shall be terminated by the SDBEP.

1. SDBEP shall provide the vendor thirty (30) day notice of intent to terminate the Operating Agreement by certified mail, return receipt requested.
2. If the vendor is in disagreement with the SDBEP's decision to terminate the Operating Agreement, the vendor must contact the SDBEP Program Administrator upon receipt of the notice of intent and within the thirty (30) day period, provide the BEP Program Administrator with any relevant information supporting continuation of the Operating Agreement.
3. The BEP Program Administrator shall discuss and develop a Plan

Section 11 continued

of Corrective Action with the vendor to assure operation of the facility or route in a manner consistent with the Operating Agreement and permit/contract.

4. The terms of the Corrective Action Plan shall be monitored as outlined in Administrative Manual Section 15.

D. Resignation:

If a vendor on extended sick leave chooses to resign from the assigned facility or route, the vendor shall provide a written statement to the SDBEP indicating the effective date of the resignation. The SDBEP shall then operate the facility or route as "Facility or Route No Vendor" until it can be reassigned through the normal request process outlined in Section 4 of this administrative manual.

E. Eligibility to Participate in the Request Process:

A vendor on extended sick leave is not permitted to request another facility or route unless medical documentation is provided to the SDBEP verifying that the operating demands of the announced facility or route are consistent with the vendor's current functional limitations.

SECTION 12

Subject: The Death of a Vendor

Upon the death of a vendor, the SDBEP Program Administrator will:

- A. Communicate with the vendor's designated contact person as specified in the Important Information File. If the vendor has failed to designate a person to run the facility or route, the facility or route will be operated as a "Facility or Route No Vendor" until reassigned through the bid process.
- B. The vendor's identified designee or, in the absence of a designee, the SDBEP, will continue to operate the facility or route with the approval of the vendor's heir or executor. The proceeds, less operating costs, shall go to the heir or executor of the estate until the facility or route is reassigned.
- C. The SDBEP will perform the normal oversight functions and may supervise the operation of the vending facility or route until the final inventory is taken. The proceeds from such operation, less the cost of substitute personnel, will accrue to the vendor's estate.
- D. Within thirty (30) calendar days, the SDBEP shall designate the date on which final inventory shall be taken in accordance with these policies; and, so notify the designated person or the vendor's heirs.
- E. Following final inventory, the vendor's heirs and/or executor shall be notified of any funds owed to the SDBEP or of any profits owed to the estate. Final payments shall be made as appropriate within sixty (60) days.

SECTION 13

Subject: Abandonment of a Vending Facility

A. Abandonment of a facility is defined as a vendor's relinquishment of responsibility to operate his/her vending facility or route in accordance with the Operating Agreement and Permit/Contract by failing to assure the continued operation of the facility or route to serve his/her customers. If a vendor abandons his/her facility or route, the vendor shall be subject to temporary removal from the facility or route under emergency conditions as referenced in Section 15, 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.

1. The vendor shall be provided a letter notifying him/her that he/she shall be temporarily removed as vendor of the facility or route with a recommendation for termination. The letter shall be hand delivered and read or mailed return receipt requested. The letter shall specify the vendor's right to appeal the SDBEP's action and recommendation for termination. Upon receipt of the letter, the vendor shall have fifteen (15) days to submit a written appeal if in disagreement with the SDBEP's actions.
2. The SDBEP will assure that the vending facility or route continues to operate efficiently until such time as the vendor either prevails as a result of an appeal or the vending facility or route is reassigned through the announcement process.
3. The SDBEP will take all steps available to recoup any funds owed to the SDBEP by the vendor at the time the facility or route was abandoned. The SDBEP will notify suppliers that the vending facility or route is under SDBEP management and decline financial responsibility for any outstanding obligations entered into by the vendor. The vendor will maintain financial responsibility for any outstanding financial obligations.
4. If a facility is operated by the SDBEP, the full cost to operate that facility will be borne by the vendor. Operating expenses

Section 13 continued

will be deducted from any monthly income payable to the vendor.

5. If the vendor chooses to appeal his/her temporary removal and recommendation for termination by the SDBEP due to his/her abandonment of the facility or route, he/she must submit a written appeal request within fifteen (15) days of the receipt of the SDBEP's written notice of temporary removal and recommendation for termination.
 6. Pending the outcome of an appeal, the vendor shall continue to receive the net proceeds from the operation of the vending facility or route less the cost of operating the facility and less any funds owed to the SDBEP.
- B. The SDBEP may make a determination that the facility or route has been abandoned, if a vending facility has not been opened within four (4) hours of the time specified on the Permit for the commencement of business operation.
1. If it is determined that the facility has been abandoned, the SDBEP will take actions necessary to assure the continued operation of the facility as described in Part A of this Section.
 2. The vendor shall be subject to immediate removal from the vending facility under emergency conditions as described in Part A of this Section.

SECTION 14

SUBJECT: Vendor Absence from Vending Facility or Route

A. Operation of a Facility or Route in a Vendor's Absence:

The vendor shall designate an individual who will be in charge of his/her vending facility or route in case the vendor is absent. If the vending facility or route does not require the vendor to have employees, it shall be the responsibility of the vendor to have an individual available to operate the vending facility or route when that vendor is absent. The name(s) and telephone number(s) of the designated individual(s) should be contained in the Important Information File.

B. Planned Absences

1. If the vendor plans to be absent from the vending facility or route for more than a full day, the vendor shall notify the BEP Program Administrator at least twenty-four (24) hours in advance of the absence. The vendor shall provide to SDBEP the following information:

- a. dates of planned absence from his/her facility
- b. name and telephone number of the person designated to be in charge of the facility or route in the vendor(s) absence
- c. location and phone number where vendor can be reached in case of emergency
- d. any additional information, if required.

2. Failure on the part of the vendor to make such notification without good cause may be grounds for recommendation for disciplinary action.

3. If it is determined that due to recurring vendor absence from the vending facility or route that the facility or route is not being operated efficiently according to terms and conditions of the operating agreement and Section 20, continued chronic absence from the facility will result in disciplinary action as detailed in Section 15.

B. If the vendor is absent from the facility for a period of four (4) hours or more and fails to provide substitute personnel, the SDBEP may determine the facility to be abandoned and action may be taken consistent with Section 15.

SECTION 15

**SUBJECT: Disciplinary Action, Termination and Due Process
Procedures**

A. Conditions for disciplinary action:

1. Disciplinary action shall be taken when a vendor fails to comply with SDBEP rules or regulations, as detailed in the SDBEP Administrative Manual, and with relevant state and federal regulations.
2. Disciplinary action shall be taken when a vendor fails to comply with the terms and conditions of his/her operating agreement and contract/permit.

B. Notice to the Vendor of Cause for Disciplinary Action:

1. The SDBEP Program Administrator shall notify the vendor in writing of any actions in violation of SDBEP rules or regulations and/or of any failure of the vendor to comply with the operating agreement and permit/contract in effect. The written notice shall include reference to specific violations of rules, regulations and/or operating permit/contract.
2. The notice shall be hand delivered or sent certified mail, return receipt requested. A copy shall be maintained in the vendor's personnel record.
3. Notice shall include direction for the vendor to contact the SDBEP Program Administrator upon receipt to schedule a meeting to develop a corrective action plan.

C. Corrective Action Plan:

1. It shall be the vendor's responsibility to meet with the SDBEP Program Administrator within fifteen (15) working days to develop a plan of corrective action to address the concerns or deficiencies brought to his/her attention by the SDBEP through written notice.
2. A written plan of action shall be agreed upon and signed by the

Section 15 continued

vendor and the SDBEP Program Administrator. A copy of the corrective action plan shall be provided to the vendor and a copy maintained in the vendor's personnel file.

3. Immediate efforts must be made by the vendor to follow the corrective action plan to resolve problem areas in order to avoid termination of his/her operating agreement and/or permit.
4. The SDBEP Program Administrator shall monitor and document progress on the plan of corrective action at least monthly to assure that continued and sufficient efforts are directed toward the resolution of identified problems.
5. When the problem(s) are satisfactorily resolved, the vendor shall be notified in writing. When continued monitoring is required by the SDBEP to assure that problems do not recur, the vendor and SDBEP will agree to a schedule of continued monitoring. The schedule and findings of continued monitoring will be documented in the vendor's personnel file.
6. The vendor may not be eligible for reassignment to another facility or route until problems identified in the corrective action plan are satisfactorily resolved.

D. Failure to Correct Identified Violations:

If corrective actions are unsatisfactory, insufficient, inconsistent or entirely lacking, the SDBEP Program Administrator shall consider relevant factors affecting the vendor's performance and shall recommend one of the following disciplinary actions.

1. The SDBEP Program Administrator may recommend that the vendor's operating agreement be terminated. If this action is taken, the SDBEP Program Administrator shall determine any conditions to be met prior to the vendor being allowed to apply for other available locations.
2. The SDBEP Program Administrator may recommend that the

vendor's operating agreement/license be terminated permanently.

E. Notification of Termination of Operating Agreement and/or License:

1. Notice of termination of an Operating Agreement shall be hand delivered or mailed certified, return receipt requested. The notice shall include the reasons for the SDBEP Program Administrator's recommendation to terminate the Operating Agreement and shall specify any conditions the SDBEP requires the vendor to meet prior to permitting the vendor to apply for other locations. Vendor appeal rights shall be included in the notice.
2. Notice of termination of a vendor's operating agreement shall be hand delivered or mailed certified return receipt requested. The notice shall include reasons for the SDBEP Program Administrator's recommendation to terminate the vendor's operating agreement and shall include the vendor's right to appeal.

F. Financial Obligations:

1. Termination of an operating agreement and/or license shall not relieve a vendor of any financial responsibilities to the SDBEP or to other entities related to the operation of the facility or route.
2. During the period a vending facility or route is operated as Facility or Route No Vendor due to termination of Operating Agreement and/or permit, any proceeds from the facility and any vending machine income associated with the facility or route shall be first applied to financial obligations of the vendor to the SDBEP, and then to any additional debts related to the vendor's association with the SDBEP prior to dissemination to the vendor.

G. Immediate Removal from Vending Facility or Route Due to Emergency Conditions:

1. Under emergency conditions, the SDBEP may remove a vendor from a facility or route immediately. Examples of emergency conditions include, but are not limited to, abandonment of the

Section 15 continued

facility or serious, unresolved concerns that risk loss of the permit/contract for the facility.

2. When emergency removal is deemed necessary, the SDBEP shall provide written notice of the removal to the vendor. The notice shall be sent certified mail, return receipt requested, or shall be hand delivered. The notice shall specify whether the SDBEP is recommending termination of the Vendor's Operating Agreement and/or his/her license; the reasons for the emergency removal and subsequent termination of the Operating Agreement and/or license; and the vendor's appeal rights.
3. Following receipt of notice, the removal from the facility or route is immediate. The facility or route shall be operated as no manager pending the results of any appeal action taken by the vendor.
4. From receipt of notice of removal, the vendor shall have fifteen (15) calendar days to submit an appeal request if he/she is in disagreement with the action recommended by the SDBEP Program Administrator. In the absence of a written appeal request, the SDBEP Program Administrator shall proceed to terminate the license and/or Operating Agreement.

H. Appeal rights:

1. Appeal information shall specify that the vendor is required to submit a written appeal request within fifteen (15) calendar days of receipt of notice if he or she is in disagreement with the SDBEP Program Administrator's recommendation for emergency removal and/or termination of an Operating Agreement.
2. Failure to submit a written appeal request within fifteen (15) calendar days shall result in termination of the Operating Agreement or license, as recommended.
3. If an appeal request is submitted within required timelines, an Administrative Review shall be scheduled within fifteen (15) calendar days of the receipt of the appeal request.

Section 15 continued

4. Pending resolution of the Administrative Review, the vendor shall accrue all profits from the operation of the facility or route less operating costs and less outstanding debts to the SDBEP, suppliers, state and federal authorities.

5. The decision made by the SBVI Division Director conducting the Administrative Review shall be mailed certified return receipt requested within fifteen (15) calendar days of the date of the review. The decision shall detail the vendor's right to further appeal if he/she is in disagreement with the decision consistent with program policies.

SECTION 16

SUBJECT: Temporary Closure of a Vending Facility

A. Temporary Closure:

1. If a significant population change occurs in a building resulting in the need to temporarily close a vending facility, the vendor who is operating the facility at the time of closure shall continue to hold an effective Operating Agreement with the SDBEP.
2. If vending machine income is generated in the building in which the facility was located, the vendor will continue to receive such income for the duration of the temporary closure. When the vending facility is reopened, the assigned vendor will resume responsibility for its operation.

B. Permanent Reassignment :

If, after a vending facility has been closed temporarily, the vendor accepts permanent reassignment to another vending facility:

1. The vendor relinquishes his/her right to return to the original vending facility when it reopens and,
2. The vendor relinquishes his/her right to receive the original site's machine income after accepting reassignment.

C. Temporary Vending Facility:

1. During the period while the vending facility is temporarily closed if the SDBEP is requested by property management to establish a temporary vending facility on the premises, the vendor who operated the original facility is expected to assume responsibility for the operation of such temporary service if the following criteria are met:
 - a. The temporary facility can be properly secured;
 - b. The temporary facility is insurable;
 - c. The SDBEP is in possession of a temporary permit or other agreement with property management specifying that the

Section 16 continued

temporary facility meets minimum health and safety codes.

2. If the original vendor agrees to operate the temporary vending facility, the facility will be operated for a minimum trial period of ninety (90) days. After the trial period, if determined by the vendor and the SDBEP that the temporary facility is not profitable, the SDBEP shall notify the property manager and make any necessary arrangements to close the facility.
3. If the vendor declines to operate the temporary facility without good cause for a trial period of ninety (90) days, the Operating Agreement between the vendor and the SDBEP will be terminated. In such case, the vendor shall not be entitled to any of the machine income generated in the building nor shall the vendor be entitled to return to the original/renovated vending facility at the time it is reopened. The vendor's Operating Agreement for the facility will be terminated and the vendor will be placed on the Ready for Assignment List.
4. If the original vendor declines the right to operate the temporary facility and the SDBEP determines there is another vendor in the building who has also been adversely affected, that vendor shall have the option of assuming responsibility for the operation of the temporary facility while retaining operation of his/her original facility.
5. If the SDBEP determines that the second vendor in the building is not adversely affected by the temporary closure of the regular vending facility or if all affected vendors decline operation of the temporary facility, the SDBEP shall announce and assign the temporary facility in accordance with Section 3 of the Administrative Manual.
6. The vendor accepting the temporary facility shall be reassigned to the newly renovated facility, unless there is good cause as to why the reassignment should not take place.

SECTION 17

SUBJECT: Access to SDBEP Information

In accordance with 34 CFR 395.12 the SDBEP shall:

- A. Prepare and submit to the Blind Vendor Committee the following written financial reports:
 - 1. Quarterly Reports for Set Aside and Rest Area Vending
 - 2. Quarterly Leave Accrual and Use Reports
 - 3. RSA-15 Report of Vending Facility Program, within thirty (30) days of being submitted to Rehabilitation Services Administration (RSA).
- B. Make accessible to any vendor information that the vendor may need for the direct operation of his/her facility or route if that information is not protected from disclosure by state or federal law.

SECTION 18

Subject: Vendor Competition

- A. If two or more blind vendors are licensed to operate vending facilities in close proximity to one another, to the extent possible, the SDBEP shall assure that the vending facilities are designed such that the facilities will not be in direct competition with each other. Examples of differing facilities not presenting direct competition include but are not limited to gift shops vs. snack bars; dry stands vs. cafeterias.
- B. Every effort shall be made by the SDBEP to assure that vending facilities in close proximity do not sell the same or similar products.
- C. If a vendor wishes to sell the same or a similar product to that being sold by another blind vendor, a request must first be made to the SDBEP Program Administrator.
- D. The two vendors and any additional vendors whose business might be adversely affected by a change in product line in a nearby facility shall have the opportunity to make their views known to the SDBEP Program Administrator.
- D. After consideration of all relevant factors including the pertinent operating agreements and contracts/permits, the SDBEP Program Administrator shall render a final and binding decision. The decision may be appealed in accordance with the appeal process.

SECTION 19

Subject: The Important Information File

Each vendor in the South Dakota Business Enterprise Program (SDBEP) shall maintain and update a file, verified annually by the vendor, containing relevant information regarding the operation of his/her vending facility or route and other pertinent data. The file will be maintained in the offices of the SDBEP in a secure, confidential manner. The file will contain, but not be limited to, the following information:

- A. The vendor's name and facility number and telephone numbers of the facility and the vendor's home and cell phone numbers. In addition, the e-mail address of the vendor if applicable.
- B. The designated individual who is in charge when the vendor is not at the vending facility: name, address, home and cell phone numbers.
- C. The names of all the vending facility or route employees including rate of pay, home address and telephone number, date when hired, and fringe benefits which each is currently receiving; or the person or manner in which to access this information.
- D. The name of the vendor's accountant, including address and telephone number.
- E. A list of the names, addresses and telephone numbers of suppliers, type of account held with each supplier, C.O.D. charges and other information deemed important by the vendor.
- F. A list of the equipment owned by the vendor and a list of any equipment that has been provided by suppliers, and therefore does not belong to the SDBEP.
- G. A list of all those individuals who hold keys to the vending facility and their addresses and telephone numbers.
- H. The name of the property manager in the building in which the vending facility is located and the manager's telephone number.

Any additional information necessary for the operation of the facility

Section 19 continued

should be provided by the vendor and identified as "Other Information".

Failure to maintain this file may result in the loss of rights identified under Section 12 of this Manual.

SECTION 20

SUBJECT: Minimum Standards for Operation of a Vending Facility

The Business Enterprise Program is designed to provide self-employment opportunities to persons who experience blindness or significant vision impairment. It is a vendor-operated program and, as such, requires the active and continuous involvement of the licensed vendor in the daily operation of the vending facility or route.

In most cases, a new vendor operator will operate on a probationary basis for 6 months. If performance does not meet the minimum standards, or the requirements of the Operating Agreement or the Vendor Administrative Manual are not met, probation will continue. If circumstances indicate, a vendor operator may be placed back on probation for a period of time until standards or requirements are met.

The following standards define the minimum criteria for operation of a vending facility or route. Failure to meet and maintain these standards will result in the development of a Corrective Action Plan, or termination from the Business Enterprise Program.

- A. Sanitation: Sanitation and housekeeping must meet minimum standards established by City, County, State and Federal health administrations, applicable to the particular vending location.
 - 1. Copies of sanitation reports conducted by agencies other than the SDBEP must be forwarded to the SDBEP within five (5) calendar days.
 - 2. Each vendor is responsible for assuring that his/her facility or machines on a route are clean, sanitized, neat and orderly at all times.

- B. Good will: The vendor is responsible for building and maintaining good will at his/her facility or route with the customer and the property managing agency.
 - 1. Relationships shall be maintained in a cordial and courteous manner.

Section 20 continued

2. Each vendor shall be required to maintain a log of any complaints received.
 3. The log shall be made available to the SDBEP upon request and during any facility review.
- C. Sales and profits: Total sales and gross profits must increase, at minimum, at a rate equal to or greater than inflation.
1. The SDBEP will review monthly reports and, if needed, the vendor will be asked to justify his/her performance if not meeting this standard on a quarterly basis.
 2. Adequate saleable goods must be maintained at the facility or route to prevent out of stocks and to assure product freshness. At minimum, inventory should be maintained in amounts comparable to initial stock provided.
 3. Make payment into the BEP Set Aside Fund in the amount and at times agreed to in the Operating Agreement or elsewhere in the Vendors Administrative Manual.
 4. If the vending facility or route is not showing a reasonable profit, the vendor will work together with the State Licensing Agency (SLA), or its designee to:
 - a. Review all business and financial management practices;
 - b. Review locations and layout of the vending facility;
 - c. Review the customer needs and availability of services;
 - d. Review public relations including relationships with the building management and customers;
 - e. Review performance of vending facility employees;
 - f. Incorporate changes deemed necessary to make the business profitable, as approved by the SLA.
 5. Every effort must be made to pay bills on a current basis. If extenuating circumstances do not allow for all accounts to be paid in full on a monthly basis, the vendor operator must inform the BEP Program Administrator immediately to develop a payment

Section 20 continued

plan. This includes any past due set aside assessments owed to BEP.

- D. Personnel and Staffing: Vendors are responsible for maintaining the minimum staffing requirements of the facility.
1. Vendors are responsible for development and maintenance of an authorized manpower chart, job descriptions for all positions and an employee handbook specifying employer expectations.
 2. Vendors and staff are to be dressed in professional attire appropriate for the type of vending facility. Uniforms may be necessary for all staff at some food service facilities. Open toed footwear are not appropriate for any facility.
 3. If the licensed vendor employs a staff, it shall be his/her responsibility to designate one of the employees to be in charge during such periods when he/she is not on duty.
- E. Hours of Operation: The facility shall be open for business at the specified hours required in the permit/contract.
- F. Equipment: Equipment shall be maintained in working order and in clean, sanitized condition.
- G. Reporting Requirements: Vendors shall submit monthly reports, records, information related to the management of the business, and other documents required by the SDBEP on a timely basis. Information reported must be accurate and verifiable.
1. Vendors must maintain business accounts and records separate from those maintained for personal affairs.
- H. Financial Responsibilities: Copies of insurance certificates must be submitted to the SDBEP. Sales tax, Workers Compensation Withholding Form 941, unemployment insurance verification and any required licenses and certifications must be current and posted. Vendors must maintain current payments with all credit accounts

Section 20 continued

consistent with the creditor's requirements, including payments to the appropriate agencies for sales tax, workmen's compensation and unemployment insurance which must be made timely and be current.

- I. Merchandise: The types of merchandise to be sold shall be in conformity with those specified by the SDBEP and the permit/contract. The licensed vendor may make no deviation from these articles to be sold without the written approval of the SDBEP.

- J. Use of Signs: The licensed vendor shall use only such signs and insignias for displays and merchandise that are necessary for the item being dispensed. Such displays may not distract from the attractiveness of the facility or vending machines.
 1. Copyrighted signs and insignias cannot be used without the approval of the Copyright holder.

 2. The SDBEP Program Administrator may provide assistance in the development of signage appropriate for your facility or route upon request.

- K. Pricing: When two or more SDBEP facilities are located in the same complex, prices should be consistent with each other. Prices should be competitive with the general price pattern prevailing in the immediate locality.

SECTION 21

Subject: Due Process

The SDBEP will provide to any blind licensee or his/her personal representative an opportunity to express and seek remedy for his/her dissatisfactions with any action arising from the operation or administration of the SDBEP.

A. Procedures For Administrative Review

1. A blind vendor or his/her representative may request in writing, within fifteen (15) working days of the occurrence of the action, an administration review of a state agency action arising out of the operation or administration of the SDBEP with which the blind vendor is aggrieved. This review will be made by a member or members of the administrative staff of the agency who has not in any way participated in the agency action in question.
2. Hearings shall be held at a time and place convenient to the blind vendor requesting such review.
3. Transportation, reader or other communication services, if needed, shall be arranged for the blind vendor by the SDBEP.
4. Documentation as to written requests for administrative review process is needed.
5. If the informal administrative review does not resolve a dispute to the satisfaction of a blind vendor, such blind vendor may request of the SDBEP a full evidentiary hearing in accordance with Section 395.13 of the Randolph-Sheppard Act.

B. Procedures For A Full Evidentiary Hearing

1. Blind vendors shall be informed in writing of their right to and the procedures to be followed in obtaining a full evidentiary hearing at the time they are licensed.
2. Hearings shall be held within fifteen (15) working days after an adverse decision based on an administrative review or, within

Section 21 continued

- fifteen (15) working days of the occurrence of the action with which the blind vendor is dissatisfied. Hearings shall be held at a time and place convenient and accessible to the blind vendor requesting the hearing.
3. A blind vendor must request a full evidentiary hearing in writing. This request must be transmitted to the Director of Service to the Blind and Visually Impaired personally or by certified mail, return receipt requested. This request may be transmitted through the State Committee of Blind Vendors in accordance with CFR 395.14(b)(2).
 4. A blind vendor shall have the right to be represented at the hearing by legal counsel or other personal representation in a full evidentiary hearing. Legal costs are to be borne by SDBEP if the blind vendor is unable to obtain legal counsel at their own expense.
 5. The SDBEP shall arrange reader services or other communication services for the blind vendor should he/she so request. Transportation costs and per diem shall be provided to the blind vendor during the duration of the hearing, if the location is in a city other than the legal residence of the blind vendor.
 6. The presiding officer of the hearing shall be an impartial and qualified official who has no involvement either with the SDBEP action which is at issue in the hearing or with the administration or operation of the Randolph-Sheppard Vending Facility Program.
 7. The presiding officer shall conduct a full evidentiary hearing, avoid delay, maintain order and make sufficient record of the proceedings so a full and true disclosure of the facts and issues are available. The presiding officer shall have all powers authorized by law and may make all procedural and evidentiary rulings necessary. The hearing shall be open to the public unless the presiding officer deems otherwise for good cause.
 8. The vendor and the SDBEP will both be entitled to present their

Section 21 continued

case by oral or documentary evidence to submit rebuttal evidence and to conduct such examination and cross examination of witnesses as may be required for a full and true disclosure of all facts bearing on the issues. All papers and documents introduced into evidence at the hearing shall be filed with the presiding officer and provided to the other party.

9. A transcript shall be made of the oral evidence and shall be made available to the parties. The SDBEP shall pay all transcript costs and shall provide the blind vendor with at least one copy.
10. The transcript of testimony, exhibits, and all papers and documents filed in the hearing shall constitute the exclusive record or decision.
11. The decision shall be made within fifteen (15) working days after the receipt of the official transcript, by the presiding officer. The presiding officer shall set forth the principal issues and relevant facts adduced at the hearing, and the applicable provisions in law, regulation, and agency policy. The decision shall contain findings of facts and conclusions with respect to each of the issues, and the reasons and basis therefore. The decision shall also set forth any remedial action necessary to resolve the issues in dispute.
12. A blind vendor who is still dissatisfied with the decision rendered after a full evidentiary hearing may request that an arbitration panel be convened by filing a complaint with the Secretary of the United States Department of Education, as authorized by Section 107d-2 of the Randolph-Sheppard Act and 34 CFR 395.13 within fifteen (15) working days of his/her receipt of such action.

Section 22

Subject: Vendor Benefits

A. Sick Leave:

1. Vendors in the SDBEP Vending Facility Program are entitled to sick leave based on the number of hours worked each week. Sick leave will accrue as follows:
 - Thirty-two (32) – fifty (50) plus hours worked per week = ten (10) hours per month
 - Twenty (20) – thirty-one (31) hours worked per week = ten (10) hours per month
 - Less than twenty (20) hours per week = no sick leave

Sick leave credits start with the date of employment, but cannot be used when a vendor is on probation or corrective action. Sick leave will be paid at a rate of \$8.00 per hour for a replacement.

2. The maximum a vendor can accumulate is two hundred (200) hours sick leave.
3. Sick leave may be granted for personal illness, pregnancy, and related disabilities, exposure to contagious diseases that would endanger the health of employees or customers, required eye and dental care, required medical examination, in-house counseling, or treatment in an approved center for alcohol, drug abuse, psychiatric, or counseling care.
4. Notification of absence for illness shall be given to the SDBEP Program Administrator prior to the vendor's normal starting time for the day involved, unless in the judgment of SDBEP, the circumstances surrounding the absence made reporting before normal starting time impossible. In that event, the report must be made as soon thereafter as is possible.
5. If a vendor is sick five (5) consecutive days, the SDBEP may require the vendor to produce a doctor's statement to support a request for sick leave.

Section 22 continued

6. If, during the year, a vendor uses all sick leave and becomes ill again, the vendor would then use vacation leave if available. A vendor who has been employed by the SDBEP for three (3) consecutive years may request advanced sick leave for no more than one hundred (100) hours once all other leave is exhausted.
7. Vendors requesting advanced sick leave must submit their signed request supported by a statement from his/her doctor. The request must be approved by the SDBEP and the Executive Committee of Blind Vendors before the advance is granted.
8. A vendor who terminates participation in the SDBEP before advanced sick leave has been repaid must repay the remaining advanced sick leave at the hourly rate paid for a replacement up to \$8.00 per hour for the leave.
9. A vendor whose license has been terminated for disciplinary reasons or who withdraws from the program, will not be paid for his/her accrued sick leave.
10. Any sick leave that is paid to the vendor is earned income and is to be claimed as business income.

B. Personal Leave

1. Vendors may use up to fifty (50) hours of their accumulated sick leave for personal leave.
2. The use of sick leave for personal leave may be granted due to a death in the immediate family, emergency illness, or scheduled surgery of a member of the immediate family. Personal leave may not be granted for any other purpose. Vendors accompanying a family member to a scheduled medical appointment may not use personal leave.
3. Personal leave may not exceed fifty (50) hours per calendar year (January - December).

Section 22 continued

4. Personal leave may be used for the illness of a child only for the duration of the work day that the child became ill.
5. Notification of absence for Personal Leave shall be given to the SDBEP Program Administrator as soon as possible.

C. Vacation Leave:

1. Each Vendor in the SDBEP Vending Facility Program is entitled to vacation leave with pay based on actual costs for a replacement up to an hourly rate of \$8.00 per hour. Vacation leave credits start with the date of employment, but cannot be used when a vendor is on probation or corrective action. Notification of intent to take vacation leave must be submitted in writing to the SDBEP Program Administrator prior to the time of departure. Leave requests may not exceed the amount of accumulated leave.
2. Vacation leave will be accrued at a monthly rate based on hours worked each week:
 - Less than 20 hours worked per week = no vacation leave
 - 20 – 31 hours worked per week = 6 hours per month
 - 32 – 50 plus hours worked per week = 12 hours per month

The maximum a vendor can accumulate is 240 hours of vacation leave. If a vendor does not use his/her vacation after reaching the maximum, he/she will not accrue leave until the accumulated hours are less than the maximum allowed.

3. A vendor whose license has been revoked or terminated will be paid his/her accrued vacation leave in a lump sum by voucher at the rate of \$6.00 per hour. Vacation leave pay is earned income and is to be claimed as business income.

D. Retirement Benefits:

1. The SDBEP, in conjunction with SD Service to the Blind and Visually Impaired, will make annual contributions to a blind

Section 22 continued

vendor's Self Employment Plan under Section 408(c) of the Internal Revenue Code. Contributions made on behalf of each eligible vendor will be deductible under Section 219 or 220 of the Code. Each vendor's account will be independent, with separate accounting.

2. A new vendor must have been in the program for twelve (12) consecutive months prior to the disbursement date in order to earn this benefit, and not be on probation or corrective action. The disbursement date will be February 1st of each year, and the amount to be contributed will be six (6) percent of the individual vendor's net profit before set aside assessment. Distribution of these retirement benefit funds shall not be made to any vendor who has left the program for any reason prior to the end of the calendar year preceding this disbursement date.
3. The SDBEP will make available to each SDBEP vendor an SEP plan through the Reinke Gray Wealth Management office in Pierre. This plan will allow several investment options or objectives (to be determined by the vendor). Each vendor may changes these options not more than three (3) times during any calendar year by requesting the new objective in writing to the Reinke Gray Wealth Management office in Pierre.
4. Any SDBEP Program Vendor, who wishes to self-direct his /her retirement plan, may request, by written notice to SDBEP, to have his/her own retirement plan. These funds will be issued directly to the administrator of that plan at the same time money is deposited in the retirement accounts of all other SDBEP Program Vendors.

This vendor must submit proof to SDBEP, by written statement or certificate of deposit from a bona fide retirement plan on a quarterly basis, showing this investment. If the vendor fails to show this proof, then no funds will be issued to him/her until such time as this proof is submitted. Also, no funds will be held in escrow for more than thirty (30) days after the disbursement date, and after such time has elapsed, any funds held for this vendor will revert to the set-aside fund.

Section 22 continued

5. In order to participate in the plan, each vendor must submit to the Division of SBVI a signed Consent and Release Form. The form will allow release of information to the SLA as may be required, to verify that an IRA account is being maintained in accordance with the approved guidelines of the SDBEP. A vendor who refuses to sign such a statement will not have funds directed into his/her IRA, nor will any funds be held in escrow for that vendor.
6. Funds used to purchase an SEP are to be claimed as earned income to the vendor. All vendors are to claim this as a business income.
7. Vendors are encouraged to match the benefits contributed by the SD Business Enterprise Program; contributions are limited to a maximum combined contribution of \$2,000.00 in any participating year. These additional contributions can be made at any time throughout the year by submitting a check to Reinke Gray Wealth Management. A minimum of \$50.00 will be accepted for each employee contribution.
8. Any licensed vendor who withdraws some or all of the funds placed in his/her IRA account by SDBEP is in violation of the intent of the Randolph-Sheppard Act to create fringe benefits for Vending Facility Program Vendors, in accordance with the federal laws governing IRA plans. In the instance of a violation, no money will be deposited into a retirement account for that vendor, nor will any funds be held in escrow for that individual for a period of one year. Exceptions to this rule, as imposed by the federal laws governing IRA plans are:
 - a. When any vendor reaches legal age (59 1/2 years).
 - b. When the former spouse of a Vending Facility Program Vendor is awarded part or all of the IRA account pursuant to a valid divorce decree.
 - c. For such other reasons as are determined allowable by the Internal Revenue Service. In the event the vendor can legally withdraw IRA funds, he/she must continue to

Section 22 continued

maintain an open and active retirement account so that deposits can be made. Any vendor not eligible to participate in an IRA program under Section 408(c) of the Internal Revenue Code, is also not eligible for participation in the blind vendor individual retirement account, and no contribution will be made on his/her behalf by the State Agency.

E. HEALTH INSURANCE

1. The SDBEP will pay the premiums for supplemental health insurance for full-time vendors. Vendors should determine the most affordable plan that best meets their needs and request SDBEP to cover the cost of the premiums on a quarterly basis. Vendors must provide proof of insurance coverage. SBVI, as the SLA, must approve prior to the SDBEP provision and payment of premium.
2. The vendors' share of the health insurance premium is paid out of the set-aside funds on a quarterly basis.
 - a. This reimbursement is earned income to the vendor and is to be claimed as business income.

SECTION 23

Subject: Election, Organization, and Functions of State Committee of Blind Vendors

- A. The SDBEP will support a vendor committee representative of all blind vendors up to a total of 10 blind vendors.
- B. The SDBEP will conduct, among the vendors in the program, an election of an Executive Committee which will represent the vendor committee in administrative areas in conjunction with the SDBEP. The executive committee will consist of:
 - 1. Chairperson
 - 2. Vice Chairperson
 - 3. Member at Large
- C. The election of the Executive Committee of Blind Vendors will be held in the fall at the annual vendors meeting with officers serving two year terms.
- D. The Executive Committee shall, with the SDBEP, develop a procedural plan for the holding of such elections which shall include: eligibility for candidacy, time limitation, time and place of vote counting and method of voting. Statewide meetings shall be called not less than once every year. Special meetings may be called as needed.
- E. All members of the Committee of Blind Vendors are required to participate in the annual statewide meeting in the Fall of each year.
- F. The SDBEP Program Administrator will advise the Committee of any matters which may be of interest to the Committee or directly involve a blind vendor. The SDBEP will receive contributions from the Committee of Blind Vendors and Executive Committee as they relate to the implementation of the policies, rules and regulations of the operation of the SDBEP. In the event the SDBEP does not adopt the views and positions of the Committee of Blind Vendors. it will notify the Committee in writing of the decision reached and the reasons for actions taken.

SECTION 24

Subject: Scope of Authority and Administration

A. Organization and Administration

1. The Vending Facility Program (hereafter referred to as SDBEP) in South Dakota is under the jurisdiction and control of Service to the Blind & Visually Impaired (hereafter referred to as SBVI). The SDBEP works closely with SBVI and is dependent upon their service for the selection and training of clients as vendors of the various vending facilities and routes, as well as funds to promote and establish new vendor locations. SBVI field staff determine eligibility of individual blind persons and the Division of SBVI Administration issues the rules and regulations pertaining to the vending facilities and routes established under the Randolph-Sheppard Vending Act.
2. Periodic revision of the SDBEP and its regulations is necessary to keep pace with changes in legislation and operating conditions. The rules and regulations governing the SDBEP must be approved by SBVI, (hereby known as the State Licensing Agency, (SLA)) as required by the amendments to the Randolph-Sheppard Act (P.L. 93-516) and the Rehabilitation Act of 1973 as amended.
3. The SLA shall provide for the biennial election of an Executive Committee of Blind Vendors which shall be fully representative of all blind licensees in the State program.
 - a. The Executive Committee of Blind Vendors shall:
 - i. Participate with the SLA in major administrative decisions concerning the policy and program development decisions affecting the overall administration of the SDBEP Vending Facility Program;
 - ii. Receive and transmit to the SLA grievances at the request of blind licensees and serve as advocates for such licensees in connection with such grievances;
 - iii. Participate with the SLA in the development and

Section 24 continued

administration of a State system for the transfer and promotion of blind licensees;

- iv. Participate with the SLA in the development of training and retraining programs for blind licensees;
- v. Sponsor, with the assistance of the SLA, meetings and instructional conferences for blind licensees within the State.

B. Surveying and Establishment of Vending Facilities and Routes:

The surveying of possible sites and the establishment of new facilities and routes are responsibilities assigned to the SDBEP Program Administrator.

C. Status of the SDBEP Vendor:

Each SDBEP vendor is considered to be a self-employed vendor licensed or certified by the SLA. The vendor is subject to the policies, rules, and regulations of the South Dakota Business Enterprise Program, but is not an employee of that Program, SBVI, nor of the State of South Dakota.

SECTION 25

SUBJECT: Vendor Payment to Spouse, Family Members and Other Employees

- A. Vendors are allowed to consider the labor from any individual; including the labor provided by a spouse, significant other, family members, close relatives, and any acquaintances. All such labor, whether hourly or salaried, shall be paid at a value comparable to the fair market determined wage for the type of labor performed or prevailing in that geographic location.

- B. The Vendor must keep a time sheet for recording and documenting the hours that the spouse, significant other, family members and all other employees devote to the ongoing operation of the facility or route. The Vendor must clearly indicate on the time reporting form the number of hours spent by each individual working in the facility or route, the activities completed, and the hourly or salaried wage paid for each individual. The form should be submitted at the end of each month to the BEP Program Administrator with any other required documentation.

- C. It is not acceptable for anyone other than the Vendor to manage the vending facility or route.

Appendix A
BEP Food Service Job Description

Food Service Vendors, also referred to as “licensed vendors”, have diverse job responsibilities on a day-to-day basis. Required functional capacities and skills required to perform the essential job functions of a food service vendor (based on full-time) include:

- Good fine and gross motor coordination in the fingers, hands, and arms
- Ability to bend, stretch, and lift items weighing up to 35 pounds
- Ability to work at a steady pace 10 hours a day, 5 ½ days a week, without ill effects
- Adequate mobility skills sufficient to travel independently and safely utilizing public transportation
- Ability to safely traverse the distance between a public transportation stop and vending facility as certified by an orientation and mobility instructor
- Adequate independent living skills sufficient to allow the vendor to live independently caring for one’s personal needs such a cooking, cleaning, and ADL skills
- Ability to operate or learn to operate a computer and utilize spreadsheet and other programs that assist with bookkeeping or accounting processes

Five basic areas of responsibility include: 1. Leadership; 2. Human Resources Management; 3. Safe Food Management; 4. Service Controls; and 5. Financial Management.

1. Leadership

- Administration of the facility to include maintaining goodwill relationships with building management and patrons.
- Develop and maintain profitability and efficiency standards.
- Determine employee roles and responsibilities.
- Develop and maintain recordkeeping policies and procedures.
- Apply for and maintain required permits and licenses.
- Develop and maintain emergency procedures and the security of the property.

2. Human Resource Management

- Manage personnel records.
- Maintain payroll records for all staff.
- Provide training for relief management staff.
- Conduct all aspects of human resource management, including recruiting, interviewing, and hiring new employees, employee performance appraisals, and employment improvement plans.
- Develop master training schedule to ensure cross training of staff.
- Maintain accident and injury reports.
- Provide/conduct employee training annually or more often as needed.
- Maintain knowledge of employment standards, including employee withholding exemption certificates.
- Establish employee work schedules.
- Provide information to employees regarding required attendance, pay periods, paydays, and benefits.

3. Safe Food Management

- Purchase and receive merchandise from reliable approved suppliers. Identify backup suppliers in case of emergencies.
- Establish and maintain standards of acceptable product, quality, and specific quantities for each product ordered.
- Formulate step-by-step procedures for inspection of invoices, counting inventory, determining product quality to include damage.
- Formulate, as necessary, a system of credit and returns with suppliers.
- Develop schedules for delivery of products.
- Manage inventory/purchase operations of the facility following all local, state, and federal food regulations. This includes compliance with the ServSafe Sanitation program.

4. Service Controls

- Establish procedures and guidelines for services.
- Establish service hours (based on permit).
- Ensure proper sanitation procedures are followed.

- Provide great customer service and ensure staff does the same.

5. Financial Management

- Establish income and expense controls procedure.
- Management of disbursements and invoice management.
- Establish and maintain sales tax procedures.
- Complete and submit timely daily, weekly, quarterly and annual reports using the established reporting format.
- Ensure menu items are priced accurately to maintain profit contribution. Conduct menu analysis at least annually.

Skills and Characteristics for Success

The Randolph-Sheppard Food Service Vendor program is an excellent opportunity for consumers interested in an employment setting that demands independence and self-sufficiency. Consumers who are most successful in the program have several significant skills, abilities, personal traits, and characteristics.

1. Skills and Abilities

- Mastery of or ability to acquire skills of blindness.
- Self-directed and motivated to continually improve food services to customers.
- Math, reading, and writing skills at a minimum of eighth grade level.
- Strong verbal communication skills.
- Proficiency in the use of Braille or large print or augmentative communication devices depending on individual needs.
- Have the interest and ability to use assistive technology such as:
 - Talking Calculator or Large Print Calculator
 - Braillewriter
 - Braille "N Speak
 - Talking Cash Register
 - Tape Recorder
 - Closed Circuit Television (CCTV)
- Ability to hire and train employees.

- Ability to demonstrate or learn leadership skills.
- Ability to work well under pressure and meet deadlines.
- Ability to follow directions.
- Ability to retain information.
- Strong organization skills.
- Ability to get along with others.
- Ability to positively embrace change.
- Ability to interpret financial data.
- Ability to use/operate a computer.

2. Positive Personal Traits

- Self-motivated
- Mature
- Self-assured
- Positive work ethic
- Integrity
- High energy level
- Good personal hygiene
- Positive attitude toward blindness
- Flexible
- Honesty
- Adaptable
- Attention to detail
- Assertive