

COMPLIANCE WITH RANDOLPH-SHEPPARD ACT

- 1. REASON FOR ISSUE:** This directive sets forth the policies and responsibilities for the Department of Veterans Affairs' (VA) compliance with the Randolph-Sheppard Act. The Randolph-Sheppard Act gives priority to blind vendors in the operation of cafeterias, sundries sales, and vending machines on Federally-owned or occupied property. The provisions of this directive are applicable to all elements of VA.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** Organizational names have been updated, and a Web site link to the State Licensing Agency listing has been added.
- 3. RESPONSIBLE OFFICE:** The Office of Construction and Facilities Management (00CFM) is responsible for the material contained in this directive.
- 4. RELATED HANDBOOK:** None.
- 5. RESCISSION:** VA Directive 7632, Compliance with Randolph-Sheppard Act, May 15, 2002.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
Roger W. Baker
Assistant Secretary for
Information and Technology

/s/
Glenn D. Haggstrom
Executive Director, Office of Acquisition,
Logistics, and Construction

Distribution: Electronic Only

COMPLIANCE WITH THE RANDOLPH-SHEPPARD ACT

1. PURPOSE: This directive provides policy to Department of Veterans Affairs (VA) elements for compliance with the Randolph-Sheppard Act, as amended. Congress originally enacted the Randolph-Sheppard Vending Stand Act in 1936. It has also been known as the Randolph-Sheppard Act and will be so referred to throughout this document. The legislation was amended in 1954 and again in 1974. Its purpose is to give priority to blind vendors in the operation of cafeterias, sundries sales, and vending machines on Federally-owned or occupied property. The provisions of this directive are applicable to all elements of VA.

2. POLICY

a. VA will comply with the applicable provisions of the Randolph-Sheppard Act. However, the Act does not override the laws under which VA is required to provide health and other benefits to Veterans. VA's implementation of the Randolph-Sheppard Act, therefore, must be consistent with those laws.

b. Nothing in this directive is intended to diminish the statutory role of the Veterans Canteen Service (VCS) in providing food services, sundries and vending machine services in VA facilities. No statutory or regulatory provision prohibits the co-existence of VCS and blind vendor operations at the same location.

3. RESPONSIBILITIES

a. **Under Secretaries, Acting Secretaries, and Other Key Officials** will:

(1) Review, approve and deny blind vendor permit applications for sites under their respective operational jurisdiction received from a State Licensing Agency (SLA). A permit application from a SLA may be approved only where there is a duty to do so under the Randolph-Sheppard Act.

(2) Justify to the Secretary of Education any limitation on the location or operation of a vending facility based on a finding that such location or operation would be adverse to the interests of the United States.

(3) Designate an individual to serve on an arbitration panel convened by the Department of Education.

(4) Establish procedures, consistent with the Randolph-Sheppard Act and implementing regulations, to implement the provisions of this directive to ensure compliance by their administrations with the Randolph-Sheppard Act, as amended. This will require ongoing analysis of space acquisition plans (whether space is acquired by construction, lease, or otherwise), notification to the appropriate SLA when

applicable criteria are met, and designation of an official who has authority to represent the administration in any dealings with a SLA.

(5) Provide to the Director, Office of Construction & Facilities Management, within 10 working days of signature by the VA representative or receipt from the SLA, a copy of any:

(a) Letter sent to notify a SLA of planned occupancy of space meeting the criteria for notification;

(b) Response to such notification received from a SLA; and

(c) Approval or denial of a blind vendor permit application submitted by a SLA.

(6) Provide oversight of their administration's compliance with the Randolph-Sheppard Act, as amended.

(7) Seek legal advice and assistance from the General Counsel as needed to ensure legal compliance with the provisions of law and regulation concerning the Randolph-Sheppard Act.

b. The Director, Office of Construction and Facilities Management will:

(1) Establish VA policies for achieving Randolph-Sheppard Act compliance.

(2) Issue changes to this directive as necessary to achieve and maintain compliance with the Randolph-Sheppard Act.

(3) Collect information, on a Department-wide basis, necessary to complete an annual report of Randolph-Sheppard Act activity in VA which is requested by the Department of Education.

(4) Serve, or designate an employee to serve, as the liaison between VA and the Department of Education on Randolph-Sheppard Act issues.

(5) Prepare and submit VA's annual report of Randolph-Sheppard Act activity to the Department of Education.

c. Additional Responsibilities of Selected Key Officials. In addition to the responsibilities in paragraph 3a, the Under Secretary for Health and the General Counsel have the following specific responsibilities:

(1) **The Under Secretary for Health, through the Deputy Under Secretary for Health for Operations and Management, will:**

(a) Implement procedures established by the Under Secretary for Health for notification to the appropriate SLA whenever a Veterans Health Administration (VHA) construction, leasing, or other space acquisition project meets the criteria requiring such notification.

(b) Delegate appropriate authority to the Directors, Veterans Integrated Service Network (VISN), and/or VHA field facilities directors, to review, approve, and deny blind vendor permit applications, pursuant to the provisions of the Randolph-Sheppard Act, and to negotiate with SLAs regarding issues such as siting of vending facilities and types of merchandise to be sold.

(c) Ensure that VISN Directors and VHA field facility Directors obtain legal advice and assistance from the appropriate regional counsel in the exercise of their responsibilities in preceding subparagraph 3c(1)(b).

(2) **The General Counsel will:**

(a) Provide legal advice and assistance to VA Central Office elements in developing policy and procedures to ensure compliance with the Randolph-Sheppard Act, as amended.

(b) Ensure that regional counsels are aware of their responsibility to advise and assist field facility Directors in complying with the Randolph-Sheppard Act, as amended.

4. REFERENCES

a. Department of Education Implementing Regulations, Title 34 Code of Federal Regulations, Chapter 3, Part 395.

b. Randolph-Sheppard Act, codified at Title 20 United States Code §§ 107-107f.

c. 38 U.S.C. §§ 7801-7810, "Veterans Canteen Service"

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APPENDIX A

RANDOLPH-SHEPPARD CONTACTS IN THE UNITED STATES

The National Council of State Agencies for the Blind maintains a current list of State Licensing Agency Randolph-Sheppard contacts on its Web site,
<http://www.ncsab.org/randolphSheppard/bepdirectors.htm>.

SUMMARY OF CRITERIA FOR STATE LICENSING AGENCY (SLA) NOTIFICATION
(from Title 34 Code of Federal Regulations, Chapter 3, Section 395)

1. Effective January 2, 1975, notification to the appropriate SLA is required:

a. When an agency undertakes to acquire by ownership, rent, or lease, or to otherwise occupy a building:

(1) Containing at least 15,000 square feet of interior space to be used by the government (in buildings where services are to be provided to the public) and

(2) In which 100 or more Federal employees are located during normal working hours.

b. When a building is constructed, substantially altered, or renovated, and the above criteria are met. "Substantial alteration or renovation" means a permanent material change in the floor area of a building which would render it appropriate for the location and operation of a vending facility by a blind vendor. **NOTE:** *Converting patient wards to private rooms probably would not meet this definition, nor would repairs to a roof, seismic reinforcement, or many other structural alterations. Regional Counsels can advise whether specific projects will require notification.*

2. Notification must be sent to the appropriate SLA indicating that the SLA will be given an opportunity to consult as to whether there is a satisfactory site for the location and operation of a vending facility by a blind vendor. Notice must be by certified or registered mail with return receipt and must be provided at least 60 days prior to the anticipated acquisition or occupation.

3. The SLA must indicate its interest in establishing a vending facility within 30 days of receipt of notification.

a. The SLA must also submit an application for a permit to establish a blind vending operation. The application must specify each location where the SLA proposes to locate a vending machine and must describe the merchandise to be sold from each machine. Agencies have the authority to approve or disapprove the location or types of merchandise proposed in a permit application.

b. Agencies approving permit applications for blind vendors must provide space, utilities, and routine cleaning, maintenance, and repair of the building structure at no cost to the vendor. The vendor or SLA must provide cleaning necessary for sanitation, and the cost of installation, maintenance, repair, replacement, and removal of vending facility equipment.

NOTE: *When an agency leases space in a privately owned building in which there is an existing food service operation or contract in a part of the building not included in such lease, and a blind vendor would be in "proximate and substantial direct competition" with such food service, notification to the SLA is not required.*

MAY 5, 2011

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APPENDIX C

SAMPLE NOTIFICATION LETTER TO STATE LICENSING AGENCY

Mr. John Smith
Director
State Licensing Agency
Address
City, ST ZIP

Dear Mr. Smith:

In accordance with the Randolph-Sheppard Vending Stand Act, Title 20 United States Code (U.S.C.) subsections 107-107f, and implementing regulations contained in Title 34 Code of Federal Regulations, Part 395, this is an official notification that the Department of Veterans Affairs (VA) intends to occupy a building that may include in its plans a satisfactory site for the location and operation of a vending facility by blind persons.

On or about (date), VA will (complete construction and/or renovation of)(occupy) a (type of facility) located at (address). Your agency shall be afforded the opportunity to consult as to whether such building includes a satisfactory site for a vending facility. Subject to approval of the Secretary of Veterans Affairs, or designee, your agency will also be afforded the opportunity to select the location and type of vending facility to be operated by a blind vendor prior to the completion of the final space layout of the building. If your agency is interested in exploring the possibility of establishing a vending facility in this building, please contact (name) at (telephone) to make the necessary arrangements to conduct a site survey.

Please be advised that VA has statutory authority under 38 U.S.C. Chapter 78 to operate its own vending facilities. The Veterans Canteen Service (VCS) may be providing vending services in this building. If a Randolph-Sheppard vending facility is established in this building, it will co-exist with any facilities operated by VCS.

Sincerely,

Jane Doe
Medical Center Director