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PART 11—OPERATION OF VENDING FACILITIES BY THE BLIND ON FEDERAL PROPERTY UNDER THE CONTROL OF THE DEPARTMENT OF THE TREASURY

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AUTHORITY: 49 Stat. 1559, as amended by Act of Aug. 3, 1954, Pub. L. 83–565, 68 Stat. 663, as further amended by Pub. L. 93–516, 88 Stat. 1622, (20 U.S.C. 107).

SOURCE: 58 FR 57560, Oct. 26, 1993, unless otherwise noted.

§ 11.1 Purpose.

This part contains policy and procedures to ensure the priority of blind vendors in operating vending facilities on property controlled by the Department of the Treasury. The provisions of this part apply to all bureaus, the Departmental Offices and the Office of Inspector General.

§ 11.2 Policy.

Blind vendors licensed by State licensing agencies designated by the Secretary of Education under the provisions of the Randolph-Sheppard Act (20 U.S.C. 107 *et seq.*) shall be given priority in the location and operation of vending facilities, including vending machines, on property controlled by the Department of the Treasury, provided the location or operation of such facility would not adversely affect the interests of the United States. Treasury bureaus shall ensure that the collection and distribution of vending machine income from vending machines on Treasury-controlled property shall be in compliance with the regulations set forth in 34 CFR 395.32. Blind vendors shall also be given priority on Treasury-controlled property in the operation of cafeterias according to 34 CFR 395.33.

§ 11.3 Definitions.

Terms used are defined in 34 CFR 395.1, except that as used in this part, the following terms shall have the following meanings:

(a) *Department of the Treasury controlled property* means any Federal building, land, or other real property owned, leased, or occupied by a bureau or office of the Department of the Treasury, of which the maintenance, operation, and protection is under the control of the Department of the Treasury.

(b) The term *bureau* means any bureau or office of the Department of the Treasury and such comparable administrative units as may hereafter be created or made a part of the Department, and includes the Departmental Offices and the Office of Inspector General. The ''head of the bureau'' for the Departmental Offices is the Deputy Assistant Secretary (Administration).

§ 11.4 Establishing vending facilities.

(a) Treasury bureaus shall not acquire a building by ownership, rent, or lease, or occupy a building to be constructed, substantially altered, or renovated unless it is determined that such buildings contain or will contain a ''satisfactory site,'' as defined in 34 CFR 395.1(q), for the location and operation of a blind vending facility.

(b) In accordance with 34 CFR 395.31, Treasury bureaus shall provide the appropriate State licensing agency with written notice of the intention to acquire or otherwise occupy such building. Providing notification shall be the responsibility of the bureau on-site property management official.

§ 11.5 Application for permit.

Applications for permits for the operation of vending facilities other than cafeterias shall be made in writing and submitted for the review and approval of the head of the appropriate Treasury bureau or that official's designee.

§ 11.6 Terms of permit.

Every permit shall describe the location of the vending facility, including any vending machines located on other than facility premises, and shall be subject to the following provisions:

(a) The permit shall be issued in the name of the applicant State licensing agency which shall perform the responsibilities set forth in 34 CFR 395.35 (a);

(b) The permit shall be issued for an indefinite period of time subject to suspension or termination on the basis of compliance or noncompliance with agreed upon terms.

(c) The permit shall provide that:

(1) No charge shall be made to the State licensing agency for normal cleaning, maintenance, and repair of the building structure in and adjacent to the vending facility areas;

(2) Cleaning necessary for sanitation; the maintenance of vending facilities and vending machines in an orderly condition at all times; the installation, maintenance, repair, replacement, servicing, and removal of vending facility equipment shall be without cost to the Department of the Treasury; and

(3) Articles sold at vending facilities operated by blind licensees may consist of newspapers, periodicals, publications, confections, tobacco products, foods, beverages, chances for any lottery authorized by State law and conducted by an agency of a State within such State, and other articles or services as are determined by the State licensing agency, in consultation with the appropriate Treasury bureau, to be suitable for a particular location. Such articles and services may be dispensed automatically or manually and may be prepared on or off the premises.

(d) The permit shall further provide that vending facilities shall be operated in compliance with applicable health, sanitation, and building codes or ordinances.

(e) The permit shall further provide that installation, modification, relocation, removal, and renovation of vending facilities shall be subject to the prior approval and supervision of the bureau on-site property management officer of the appropriate Treasury bureau and the State licensing agency; that costs of relocations initiated by the State licensing agency shall be paid by the State licensing agency; that costs of relocations initiated by a Treasury bureau shall be paid by the Treasury bureau; and that all plumbing, electrical, and mechanical costs related to the renovation of existing facilities shall be paid by the appropriate Treasury bureau.

(f) The operation of a cafeteria by a blind vendor shall be covered by a contractual agreement and not by a permit. The State licensing agency shall be expected to perform under the same contractual arrangement applicable to commercial cafeteria operators.

§ 11.7 Enforcement procedures.

(a) The State licensing agency shall attempt to resolve day-to-day problems pertaining to the operation of the vending facility in an informal manner with the participation of the blind vendor and the on-site property management officials of the respective Treasury bureaus who are responsible for the Treasury-controlled property.

(b) Unresolved disagreements concerning the terms of the permit, the Act, or the regulations in this part and any other unresolved matters shall be reported in writing to the State licensing agency supervisory personnel by the bureau on-site supervisory property management official in an attempt to resolve the issue.

§ 11.8 Reports.

This section establishes a Department of the Treasury reporting requirement to comply with 34 CFR 395.38. At the end of each fiscal year, each property managing bureau shall submit a report to the Director, Office of Management Support Systems, Departmental Offices, containing the elements set forth in 34 CFR 395.38. The Director, Office of Management Support Systems, shall submit a consolidated report to the Secretary of Education after the end of the fiscal year.

PART 12—RESTRICTION OF SALE AND DISTRIBUTION OF TOBACCO PRODUCTS

Sec.

12.1 Purpose.
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12.3 Sale of tobacco products in vending machines prohibited.
12.4 Distribution of free samples of tobacco products prohibited.
12.5 Prohibitions not applicable in areas designated by the Secretary of the Treasury.

AUTHORITY: Sec. 636, Pub. L. 104–52, 109 Stat. 507.

SOURCE: 61 FR 25396, May 21, 1996, unless otherwise noted.