

end item or associated components to second and third foreign parties.

(3) Projects that capitalize on the unique technical state-of-the-art capabilities existing in a foreign country and offer prospects of saving the U.S. time and money in the R&D and production field.

(4) Projects that enable the United States to assist and/or accommodate a foreign second party to accomplish joint R&D objectives without jeopardizing U.S. aspirations to promote future U.S. sales to third countries.

§ 258.5 Procedures.

Procedures for accomplishing and administering the cooperative programs and projects will be integrated into DoD management systems so that decisions concerning national and international programs will be made by the same individuals.

§ 258.6 Responsibilities and authorities.

(a) The Military Departments are charged with the primary responsibility for implementing this part.

(b) The Director of Defense Research and Engineering will be responsible for monitoring the implementation of this part. He will:

(1) Negotiate basic policy agreements with foreign Ministries of Defense as appropriate.

(2) Consult with the Joint Chiefs of Staff on the interaction of research and development and strategic doctrines.

(3) Seek formal statements of military operational requirements from the Military Departments or the JCS, as appropriate, for research and development projects and equipment areas which require such statements.

(4) Recommend to the Secretary of Defense policy guidance and appropriate instructions for the Military Departments to assure consistency of their actions and conformity with National Policy.

(5) Continually review progress made towards the objectives of this part.

(6) Request policy guidance and support from Assistance Secretaries of Defense (ISA) (I&L) (Comp), and the General Counsel on matters within their respective fields of responsibility.

(c) The Defense Advisor U.S. Mission to the North Atlantic Treaty Organization will assist the Director of Defense Research and Engineering, as directed, in supervising the implementation of this part.

(d) Military Assistance Advisory Groups and Missions will provide advice and assistance to the Military Departments as requested and within the limits of availability of assigned resources. Those MAAGs and Missions within the North Atlantic Treaty Organization areas will provide advice and assistance to the Defense Advisor U.S. NATO when requested.

PART 259—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

AUTHORITY: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894, (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Pub. L. 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 note).

§ 259.1 Uniform relocation assistance and real property acquisition.

Regulations and procedures for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Title IV of Pub. L. 100-17, 101 Stat. 246-256, 42 U.S.C. 4601 note) are set forth in 49 CFR part 24.

[52 FR 48020, Dec. 17, 1987]

PART 260—VENDING FACILITY PROGRAM FOR THE BLIND ON FEDERAL PROPERTY

Sec.
260.1 Reissuance and purpose.
260.2 Applicability.
260.3 Policy.
260.4 Responsibilities.
260.5 Arbitration.
260.6 Definitions.

§ 260.1

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: 43 FR 25337, June 12, 1978, unless otherwise noted.

§ 260.1 Reissuance and purpose.

This part updates part 260 to implement the provisions of the Randolph-Sheppard Vending Stand Act and 45 CFR part 13, part 1369, and establishes within the Department of Defense:

(a) Uniform policies for application of priority accorded the blind to operate vending facilities;

(b) Requirements for satisfactory vending facility sites in DoD Component-owned or occupied buildings; and,

(c) Vending machine income-sharing requirements on property under the jurisdiction of a DoD Component.

§ 260.2 Applicability.

The provisions of this part apply to the office of the Secretary of Defense, the Military Departments, and the Defense Agencies (hereafter referred to as "DoD Components") in the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

§ 260.3 Policy.

In implementation of the Randolph-Sheppard Act, priority on DoD-controlled property will be extended to the blind as set out below:

(a) The blind will be given a priority in establishment and operation of vending facilities.

(b) The blind will be given a priority in award of contracts to operate cafeterias.

(c) In conjunction with acquisition or substantial alteration or renovation of property, satisfactory sites will be provided for operation of blind vending facilities.

(d) Certain income from vending machines operated by a DoD Component either directly or by contract will be given to State licensing agencies.

(e) DoD components will take necessary action to ensure that, within their areas of responsibility, the requirements set forth below are implemented.

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(f) The blind have a priority right to operate vending facilities on DoD-controlled property when the opportunity to operate them becomes available. The priority extended allows blind licensees to be gainfully employed. While primary responsibility for carrying out this intent falls upon the State licensing agency, it is nevertheless a responsibility of the on-site official to ensure that the operator is in fact a State licensed blind person and that sighted employees or assistants are utilized only to the extent reasonably necessary.

(1) This priority will not be accorded when the on-site official determines, after conferring with the Head of the DoD component, that the interest of the United States would be adversely affected if the priority were accorded.

(2) Any determination that according the priority would be adverse to interests of the United States must be fully justified in writing through the head of the DoD component concerned (who will consult with the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics)) (ASD(MRA&L)). The justification then shall be sent to the Secretary, Department of Health, Education, and Welfare (HEW), who has authority to determine whether the failure to accord the priority is justified by the circumstances. This determination by the Secretary, HEW must be published in the FEDERAL REGISTER and is binding upon the DoD component.

(3) Applications for permits by the State licensing agency to operate vending facilities (except cafeterias) on DoD controlled property must be submitted in writing to the head of the DoD component concerned, through the on-site official. When an application is not approved, the head of the DoD component will advise the State licensing agency in writing and will indicate the reasons for the disapproval. When issued, permits will describe the location of the vending facility and will be subject to the following requirements:

(i) The permit will be issued in the name of the State licensing agency.

(ii) The permit will be issued for an indefinite period of time subject to suspension or termination upon failure to

comply with agreed upon terms; and subject to termination by either party upon 60 days written notice to the other party, in cases of

(A) Inactivation of the installation or activity,

(B) Loss of use of a building or other facility housing the vending facility,

(C) Change in the DoD component's requirements for service, or

(D) Inability of the State licensing agency to continue to operate the vending facility.

(iii) The permit will provide that:

(A) No charge will be made by the DoD component to the State licensing agency for normal repair and maintenance of the building, or for cleaning areas adjacent to the designated vending facility boundaries, or for trash removal from a designated collection point.

(B) The State licensing agency will be responsible for cleaning and maintaining the appearance of and for the security of the vending facility within the designated boundaries of such facility and for all costs of every kind in conjunction with vending facility equipment, merchandise and other products to be sold, except as provided in paragraph (f)(3)(iii)(E) of this section. Neither party will be responsible for loss or damage to the other's property, unless proximately caused by its acts or omissions. The State licensing agency will also be responsible for the acts or omissions of the blind vendor, his employees or agents.

(C) Articles sold at such vending facilities 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 traditionally found in blind operated vending facilities operated under the Randolph-Sheppard Act as determined by the State licensing agency in consultation with the on-site official, to be suitable for a particular location (articles and services may be dispensed automatically or manually);

(D) Vending facilities will be operated in compliance with applicable health, sanitation and building codes, ordinances, and regulations;

(E) Installation, modification, relocation, removal, and renovation of vending facilities will be subject to the prior approval of the on-site official and the State licensing agency. Costs of installation, modification, removal, relocation or renovation will be paid by the initiating party. In any case of suspension or termination of a permit to operate a vending facility on the basis of noncompliance by either party, the costs of removal from the building will be borne by the noncomplying party.

(iv) The permit will also contain appropriate requirements for reimbursement or direct payment for support services such as utilities and telephone service.

(v) In the event the blind licensee fails to provide satisfactory service or otherwise fails to comply with the requirements of the permit issued to the State licensing agency, the on-site official will, after coordinating with the Head of the DoD Component, notify the State licensing agency of this deficiency in writing and request corrective action within a specified reasonable time. The notice will indicate that failure to correct the deficiency will result in temporary suspension or termination of the permit, as appropriate. Suspension or termination action will be taken by the Head of the DoD Component concerned after consultation with the ASD (MRA&L).

(g) The blind have a priority right to operate cafeterias on DoD-controlled property, as set out in paragraph (g) (1) or (2) of this section, when the cafeteria operation involved is contracted.

(1) Procuring activity solicitations, when issued, will establish basic requirements and the criteria for judging proposals. One copy of each solicitation will be provided to the State licensing agency for the blind. The criteria upon which proposals will be evaluated may include factors such as sanitation practices, personnel, staffing, menu pricing and portion sizes, variety, budget and accounting practices, fees, and other relevant considerations.

(i) If the State licensing agency submits a proposal and it is not within the competitive range established by the contracting officer, award may be made to another offeror following normal procurement procedures, but only

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after the on-site official confers with the Head of the DoD Component.

(ii) If the State licensing agency submits a proposal and it is within the competitive range established by the contracting officer, the contract will be awarded to the State licensing agency except as provided in paragraph (g)(1)(iii) of this section.

(iii) The contracting officer may award to other than the State licensing agency when the on-site official determines that award to the State licensing agency would adversely affect the interests of the United States and the Secretary, HEW, approves the determination (processing will be in accordance with paragraph (f)(2) of this section), or when the on-site official determines, after conferring with the Head of the DoD Component, and the Secretary, HEW, agrees, that the blind vendor does not have the capacity to operate a cafeteria in such a manner as to provide food service at a comparable cost and of comparable high quality as that available from other providers of cafeteria services.

(2) Direct negotiations may be undertaken with State licensing agencies whenever the on-site official, with concurrence of the Head of the DoD Component, has determined that State licensing agency, through its blind licensee, can provide the cafeteria services required at a reasonable cost, with food of a high quality comparable to that available from other providers of cafeteria services. In the event direct negotiations fail to result in a contract with the State licensing agency, the procedures prescribed in paragraph (g)(1) of this section, will be followed.

(3) The operation of a cafeteria by a blind vendor will be governed by contractual agreement, not by a permit. Normal contract administration procedures will apply, except that termination actions will not be taken without prior coordination with the Head of the DoD Component concerned.

(4) All contracts for the operation of cafeterias on DoD-controlled property with other than State licensing agencies will, upon expiration, be processed under the above paragraphs unless the State licensing agency informs the on-site official that it is not prepared to exercise its priority at that time.

(h) Any DoD Component acquired (purchased, rented, leased, constructed), or substantially altered or renovated building is required to have one or more satisfactory sites (as defined in §260.6) for a blind-operated vending facility, except as provided in paragraph (h)(1) of this section.

(1) A determination that a building contains a satisfactory site or sites is presumed made if the State licensing agency and the on-site official consult and agree that the site or sites provided are satisfactory.

(i) DoD Components will notify by certified or registered mail, return receipt requested, the appropriate State licensing agency of buildings to be acquired or substantially altered or renovated. This notification will be provided at least 60 days in advance of the intended acquisition date or the initiation of actual construction, alteration or renovation. As a practical matter, the State licensing agency should be contacted early in the planning or design stage of a project. (This notice requirement does not apply in cases as described in paragraph (h)(1)(i)(C) of this section.) This notification will:

(A) Indicate that a satisfactory site or sites for the location and operation of a blind vending facility is included in the plans for the building.

(B) Forward a copy of a single line drawing indicating the proposed location of such site or sites.

(C) Assure the State licensing agency that, subject to the approval of the DoD Component involved, it will be offered the opportunity to select the location and type of vending facility to be operated by a blind vendor prior to completion of the final space layout of the building, and

(D) Also indicate that an unexplained response indicating that the State licensing agency does not desire to establish and operate a vending facility, or the absence of a response within 30 days will be construed by the DoD Component concerned as a determination by the State licensing agency that the number of persons using the property is or will be insufficient to support a vending facility.

(ii) The State licensing agency must respond within 30 days acknowledging receipt of the correspondence from the

DoD Component and indicating whether it is interested in establishing a vending facility, and if interested, indicating its agreement or alternate selection of a location and its selection of type of vending facility. A copy of the written notice to the State licensing agency and the State licensing agency's response, if any, will be provided to the Secretary, HEW.

(iii) If the State licensing agency responds indicating that it does not desire to establish and operate a vending facility and sets forth any specific basis other than the insufficiency of persons to support a vending facility, then a satisfactory site which meets anticipated needs of the DoD Component will be incorporated. Each such satisfactory site will meet or exceed the requirements defined in § 260.6.

(iv) If an unexplained response indicating that the State licensing agency does not desire to establish and operate a vending facility is received, or if no response is received within the 30 day period, the on-site official will, through the Head of the DoD Component, notify the Secretary, HEW, that the State licensing agency's response or failure to respond has been construed as a determination by the State licensing agency that the number of persons using the property is or will be insufficient to support a vending facility and that a satisfactory site to be operated under the auspices of the State licensing agency will not be incorporated, unless directed by the Secretary, HEW. This notification will also be provided if the State licensing agency responds and affirmatively indicates that it has made such a determination.

(2) The Secretary, HEW, has determined that the requirement to provide a satisfactory site does not apply:

(i) When fewer than 100 Federal employees (as defined in § 260.6) will be located in the building during normal working hours; or

(ii) When the building contains less than 15,000 square feet to be used for Federal Government purposes in the case of a building in which services are to be provided to the general public.

(3) The provisions of paragraph (h)(2) of this section, do not preclude arrangements under which vending facilities

to be operated by blind vendors may be established in buildings of a size or with an employee population less than that specified. For example, if a building is to be constructed which would contain only 80 Federal employees, upon agreement of the on-site official and the State licensing agency, the DoD Component concerned may determine to provide a satisfactory site in which the blind have agreed to operate a vending facility.

(4) When a DoD Component is leasing all or part of a privately owned building in which the lessor or any of its tenants have an existing restaurant or other food facility in a part of the building not covered by the lease and operation of a vending facility would be in substantial direct competition with such restaurant or other food operation, the requirement to provide a satisfactory site does not apply.

(i) Effective January 2, 1975, vending machine income generated by DoD will be shared with State licensing agencies for the blind and/or blind vendors as set forth below. The on-site official is responsible for the collection of, and accounting for, such vending machine income (as defined in § 260.6) and for otherwise ensuring compliance with the requirements of this paragraph.

(1) The vending machine income-sharing requirements are as follows:

(i) One hundred percent (100%) of the vending machine income from vending machines in direct competition with blind-operated vending facilities will be provided the State licensing agency.

(ii) Fifty percent (50%) of the vending machine income from vending machines not in direct competition with blind-operated vending facilities will be provided the State licensing agency.

(iii) Thirty percent (30%) of the vending machine income from vending machines not in direct competition with blind-operated vending facilities and located where at least 50 percent of the total hours worked on the premises occurs during other than normal working hours (as defined in § 260.6) will be provided the State licensing agency.

(2) The determination of whether a vending machine is in direct competition with the blind-operated vending facility is the responsibility of the on-

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site official subject to the concurrence of the State licensing agency.

(3) These vending machine income-sharing requirements do not apply to:

(i) Income from vending machines operated by or for the military exchanges or ships' stores systems; or

(ii) Income from vending machines, not in direct competition with a blind-operated vending facility, at any individual location, installation, or facility (as defined in §260.6) where the total of the vending machine income (as defined in §260.6) from all such machines at such location, installation, or facility does not exceed \$3,000 annually.

(4) The payment to State licensing agencies under these income-sharing requirements must be made quarterly on a calendar year basis. The first payment of income, however, will be made no later than April 30, 1978. This first payment will be for the period March 23, 1977, through the end of calendar year 1977. It will also include amounts collected and set aside during the period January 2, 1975, through March 22, 1977, for distribution to State licensing agencies. DoD Component activities which did not set aside vending machine income for distribution during the period January 2, 1975, through March 22, 1977, will consider taking steps to determine the amounts of such vending machine income which should have been withheld during that period and withhold such amounts from future income for distribution. All subsequent quarterly payments will be made within 60 days after expiration of the applicable calendar quarter.

§ 260.4 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) (ASD (MRA&L)) will monitor the overall DoD program and consult with DoD Components on all determinations (1) that the granting of a priority to the blind would be adverse to the interests of the United States, and (2) to suspend or terminate a permit to operate a vending facility.

(b) The Head of the DoD Component concerned, in monitoring its program shall:

(1) Approve/disapprove State licensing agency applications for permits and the provision of satisfactory sites;

(2) Consult with the on-site official on determinations that granting a priority to the blind would be adverse to the interests of the United States and on termination of contracts to operate a cafeteria; and

(3) Where circumstances warrant, suspend or terminate a permit to operate a vending facility.

(c) The on-site official will be the point of contact with State licensing agencies and will:

(1) Consult with State licensing agencies on articles and services to be provided;

(2) Determine, when appropriate, that granting a priority to the blind would be adverse to the interests of the United States and justify this determination to the Secretary, Health, Education, and Welfare through the Head of the DoD Component;

(3) Notify State licensing agencies of acquisition or substantial alteration or renovation of property;

(4) Ensure that operators are in fact State licensed blind persons and that sighted employees and assistants are utilized only to the extent reasonably necessary; and

(5) Negotiate with State licensing agencies on other matters indicated in §260.3.

§ 260.5 Arbitration.

Whenever any State licensing agency for the blind determines that any activity of the Department of Defense is failing to comply with the provisions of the Act and all informal attempts to resolve the issues have been unsuccessful, the State licensing agency may file a complaint with the Secretary, HEW, who will convene an ad hoc arbitration panel in accordance with the provisions of 45 CFR 1369.37.

§ 260.6 Definitions.

(a) *Blind licensee.* A blind person licensed by the State licensing agency to operate a vending facility on Federal or other property.

(b) *Cafeteria.* A food dispensing facility which provides a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a serving line where the customer serves or selects for himself from displayed selections. A cafeteria

may be fully automatic, self-service, or have limited waiter or waitress service. Table or booth seating facilities are always provided. DoD Component food dispensing facilities which conduct cafeteria-type operations during part of their normal operating day and full table-service operations during the remainder of their normal operating day are not "cafeterias" if they engage primarily in full table-service operations.

(c) *Direct competition.* The presence and operation of a DoD Component vending machine or a vending facility on the same premises as a vending facility operated by a blind vendor. Vending machines or vending facilities operated in areas serving employees, the majority of whom normally do not have access (in terms of uninterrupted ease of approach and the amount of time required to patronize the vending facility) to the vending facility operated by a blind vendor, will not be considered to be indirect competition with that vending facility.

(d) *Federal property.* Any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States.

(e) *Head of the DoD component.* Deputy Secretary of Defense, Secretaries of the Military Departments and the Directors of Defense Agencies or their designees. For the Pentagon Building only, the Deputy Assistant Secretary of Defense (Administration) is designated as the "Head of the DoD Component."

(f) *Individual location, installation, or facility.* A single building or a self-contained group of buildings. A self-contained group of buildings means two or more buildings which are in close proximity to each other, and between which a majority of the Federal employees working in such buildings regularly move from one building to another in the normal course of their official business during a normal working day.

(g) *Federal employees.* Civilian appropriated fund and nonappropriated fund employees of the United States.

(h) *License.* A written instrument issued by a State licensing agency to a blind person, authorizing that person to operate a vending facility on Federal or other property.

(i) *Normal working hours.* An 8-hour work period between the hours of 0800 and 1800 hours, Monday through Friday.

(j) *On-site official.* The individual in command of an installation or separate facility or location. For the Pentagon Building only, the chairman of the Department of Defense Concession Committee is designated as the on-site official.

(k) *Permit.* The official written approval to establish and operate a vending facility requested by and issued to a State licensing agency by a DoD Component.

(l) *Satisfactory site.* An area fully accessible to vending facility patrons and having sufficient electrical, plumbing, heating, and ventilation outlets for the location of a vending facility in accordance with applicable health and building requirements. Effective March 23, 1977, a "satisfactory site" will have a minimum of 250 square feet available for sale of items and for storage of articles necessary for the operation of a vending facility, unless the Head of the DoD Component and the State licensing agency agree that a smaller or larger facility is appropriate.

(m) *State.* The 50 States, District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

(n) *State licensing agency.* The State agency designated by the Department of Health, Education, and Welfare, Commissioner of the Rehabilitation Services Administration to issue licenses to blind persons for the operation of vending facilities on Federal and other property.

(o) *Substantial alteration or renovation.* 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.

(p) *Vending facility.* Automatic vending machines, cafeterias, snack bars, cart services, shelters, and counters, which sell such items as newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles and services to be dispensed automatically or manually and which are prepared on or off the premises in accordance with applicable health laws and further including the vending or

exchange of chances for any lottery authorized by State law and conducted by an agency of a State within such State. "Vending facility" does not include food dispensing facilities (e.g., food operations of open messes/military clubs) which engage primarily in full table-service operations.

(q) *Vending machine*. For the purpose of assigning vending machine income, means a coin or currency operated machine which dispenses articles or services, except that machines providing services of a recreational nature, commonly referred to as amusement machines (e.g., jukeboxes, pinball machines, electronic game machines, pool tables, shuffle boards, etc.) and telephones, are not considered to be vending machines.

(r) *Vending machine income*. DoD Component receipts from DoD Component vending machine operations on Federal property, after deducting all applicable costs incurred (costs of goods, service, maintenance, repair, cleaning, depreciation, supervisory and administrative personnel, normal accounting, accounting for income-sharing, and so forth) where the machines are operated by any DoD Component activity; or commissions received (less applicable DoD Component costs) by any DoD Component activity from a commercial vending firm which provides vending machines on Federal property for, or with the approval of, any DoD Component activity.

(s) *Vendor*. A blind licensee who is operating a vending facility on Federal or other property.

PART 261—ARMED SERVICES MILITARY CLUB AND PACKAGE STORES

Sec.

261.1 Purpose.

261.2 Applicability.

261.3 Policy.

261.4 Procedures.

261.5 Responsibilities.

261.6 Information requirements.

AUTHORITY: 50 U.S.C. Appendix, Section 473, section 6.

SOURCE: 47 FR 34533, Aug. 10, 1982, unless otherwise noted.

§ 261.1 Purpose.

This part incorporates DoD Directive 1330.15, "Alcoholic Beverage Control," May 4, 1964, (which is hereby cancelled), provides policy and assigns responsibilities for the operation of military clubs and package stores of the Army, Navy, Air Force, and the Marine Corps; and authorizes the development, publication, and maintenance of DoD 1015.3-R, "Armed Services and Military Club and Package Store Regulations."

§ 261.2 Applicability.

The provisions of this part apply to the Office of the Secretary of Defense and the Military Departments, including DoD activities with clubs and package stores designated as a service (executive agent) responsibility, and Defense Agencies (hereinafter referred to as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 261.3 Policy.

It is the policy of the Department of Defense that Armed Services military clubs and package stores be established as an essential part of the DoD Morale, Welfare and Recreation (MWR) program. In addition, the Department of Defense shall establish controls and procedures governing the sale of alcoholic beverages in these clubs and package stores. Affirmative measures shall be taken to provide character guidance, emphasizing the harmful effects of the immoderate use of alcohol. Chaplains and local community and national organizations shall assist in this effort. Military clubs shall provide dining, essential feeding (where required), and social programs, services, and facilities to eligible patrons. Package stores shall provide the sale of alcoholic beverages purchased for off-premise consumption by authorized patrons, and also provide a resale source of alcoholic beverages for all other authorized activities under 50 U.S.C., Appendix, Section 473. The establishment, management, and control of club and package store nonappropriated fund instrumentalities (NAFIs) shall be in accordance with DoD Directive 1015.1, "Establishment, Management, and