

RANDOLPH-SHEPPARD ACT COMPLIANCE

- 1. REASON FOR ISSUE:** This Veterans Health Administration (VHA) Directive provides the policy for VHA compliance with the Randolph-Sheppard Vending Stand Act (RSA), as amended. The provisions of this Directive are applicable to all elements of VHA and must be used in conjunction with Department of Veterans Affairs (VA) Directive 7632, Compliance with Randolph-Sheppard Act.
- 2. SUMMARY OF CONTENT:** This Directive sets forth the policy for VHA compliance with the applicable provisions of RSA, the Department of Education's regulations implementing RSA, and VA Directive 7632.
- 3. RELATED ISSUES:** VA Directive 7632.
- 4. RESPONSIBLE OFFICE:** The Office of Capital Asset Management, Engineering, and Support (10NA5) is responsible for the contents of this VHA Directive. Questions may be addressed to 202-341-9881.
- 5. RESCISSIONS.** None.
- 6. RECERTIFICATION:** This VHA Directive is scheduled for recertification on or before the last working day of February 2019.

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1. PURPOSE: This Veterans Health Administration (VHA) Directive provides the policy for VHA compliance with the Randolph-Sheppard Act (RSA), as amended. The provisions of this Directive are applicable to all elements of VHA and must be used in conjunction with Department of Veterans Affairs (VA) Directive 7632, Compliance with Randolph-Sheppard Act. **AUTHORITY:** 20 United States Code (U.S.C.) 107 et seq. and 38 U.S.C. 7304 and 7301.

2. BACKGROUND:

a. Congress originally enacted the Randolph-Sheppard Vending Stand Act in 1936. It has also been known as the RSA and will be referred to throughout this document. The RSA was amended in 1954 and again in 1974. Its purpose is to give priority to blind vendors to operate vending facilities on federally-owned or occupied property.

b. The primary goal of the RSA is to provide employment opportunities to the visually impaired. The RSA requires the Secretary of the Department of Education (ED) to promulgate regulations establishing a national program to place visually impaired vendors in vending operations (including vending machines) within facilities owned by the Federal government. Pursuant to the RSA, the Secretary of ED must also designate an agency in each state to license blind vendors to operate vending facilities on Federal properties. These are referred to as state licensing agencies (SLAs). Pursuant to the RSA, Federal agencies have a duty, under certain circumstances, to extend to the SLAs an opportunity to seek space for blind vendors to conduct business.

c. As of January 2, 1975, notification to the appropriate SLA is required when:

(1) An agency undertakes to acquire by ownership, rent, lease, or to otherwise occupy a building:

(a) 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

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

(2) 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.*

3. POLICY: VHA will comply with the applicable provisions of the RSA, the Department of Education's regulations implementing the RSA (20 U.S.C. 107 et seq.), and VA Directive 7632. RSA does not override the laws under which VA is required to provide a complete medical and hospital service, healthcare and other benefits to Veterans. VA's implementation of the RSA therefore, must be consistent with those laws. Additionally, the Veterans Canteen Service (VCS)

has a statutory role in providing food, retail, essential sundries, consumables, and vending machine services in VA facilities. VHA compliance with the RSA may result in the co-existence of VCS and blind vendor operations at the same location.

4. RESPONSIBILITIES:

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for:

(1) Establishing procedures for ensuring VHA compliance with the applicable requirements of the RSA, as prescribed by VA Directive 7632. The Deputy Under Secretary for Health for Operations and Management is delegated the authorities necessary to implement the procedures to ensure VHA compliance;

(2) Justifying to the Secretary of ED any limitation on the location or operation of a vending facility based on a finding that such location or operation would adversely affect the interests of the United States; and

(3) Designating an individual to serve on an arbitration panel convened by ED.

b. **Deputy Under Secretary for Health for Operations and Management.** The Deputy Under Secretary for Health for Operations and Management is responsible for:

(1) Implementing the procedures necessary to ensure VHA compliance with the applicable requirements of the RSA. The functions and duties necessary and appropriate to implement, manage and oversee RSA compliance within VHA are the responsibility of the Assistant Deputy Under Secretary for Health for Operations and Management for Administrative Operations; and

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

c. **Assistant Deputy Under Secretary for Health for Operations and Management for Administrative Operations.** The Assistant Deputy Under Secretary for Health for Operations and Management for Administrative Operation is responsible for:

(1) Establishing supplemental VHA policies for achieving RSA compliance; and

(2) Issuing clarifications to this Directive, as necessary, to achieve and maintain compliance with the RSA.

d. **Office of Capital Asset Management, Engineering, and Support.** The Office of Capital Asset Management, Engineering, and Support (OCAMES) is responsible for:

(1) Serving as the oversight entity for VHA compliance and maintaining and storing records associated with the applicable requirements of the RSA;

(2) Maintaining a comprehensive list of all VHA owned and leased facilities that meet the criteria that trigger SLA notification requirements under the RSA and implementing regulations;

(3) Notifying a VISN and VHA field facility that a planned project has met the requirements of the RSA;

(4) Coordinating with the VISN and VHA field facility project-specific RSA compliance, including ensuring that the appropriate SLA is notified by OCAMES no later than 60 days after each year's operating plan for new Major Construction, Minor Construction and Major Leases is approved and that the SLA is afforded an opportunity to consult with the local VHA field facility regarding the location and type of vending facility. The notification process will be carried out as follows:

(a) OCAMES will notify the SLA in writing that the agency plans to occupy space and that a satisfactory site or sites for the location and operation of a vending facility by blind persons is included in the plans;

(b) The SLA must acknowledge receipt of the written notice and indicate, in writing to the local medical facility Director, whether it is interested in establishing a vending facility in the space no later than 30 days from receipt of the written notice; and

(c) The written notice will also advise that subject to the approval of the Secretary of Veterans Affairs, or designee, the SLA will be afforded the opportunity to consult with the VHA field facility regarding 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.

(5) Providing consultation to medical facility Directors on appropriateness of articles and services, in addition to vending machines, that will be offered by the SLA within the satisfactory site;

(6) Conducting training for VISN management, including Capital Asset Managers (CAM), and other facility management and engineering personnel on RSA compliance as prescribed by VA Directive 7632;

(7) Developing, in conjunction with the VHA field facility, a justification of 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, and submitting such justification to the Under Secretary for Health for consideration and action;

(8) Ensuring that the SLA is informed in writing of any decision to deny a permit and the reasons for the denial;

(9) Providing quarterly compliance updates to the Deputy Under Secretary for Health for Operations and Management; and

(10) Compiling and providing VHA with the information necessary for the Office of Construction and Facilities Management (OCFM) to complete and submit to the Secretary of ED an annual report of RSA activity in VA.

e. **Veterans Integrated Service Network Director.** The Veterans Integrated Service Network (VISN) Director is responsible for:

(1) Ensuring owned and leased facilities within the Network are in compliance with the RSA and this Directive;

(2) Seeking legal advice and assistance from the Office of Regional Counsel as part of the planning process for any new owned or leased space to ensure legal compliance with the applicable requirements of the RSA;

(3) Advising OCAMES of all RSA solicitations, inquiries and correspondence received by the facility; and

(4) Providing monthly status reports to OCAMES for facilities with current and projected occupation of space triggering RSA requirements. The status reports include:

(a) All correspondence from blind vendors and SLAs (including any unsolicited RSA inquiries or permit applications by blind vendors and SLAs) before a response is provided;

(b) Notifications;

(c) All permits issued for vending services or contracts with RSA vendors for cafeteria services within a facility and all written decisions denying such permits or contracts with RSA vendors; and

(d) Final installation of SLA vendors for vending operations.

f. **Medical Facility Director.** The medical facility Director is responsible for:

(1) Ensuring their facilities' compliance with the RSA and this Directive;

(2) Consulting with the SLA regarding the location within the building of the space that constitutes a satisfactory site and determining what articles and services, if any, are suitable for a particular site. *NOTE: VCS has statutory authority under 38 U.S.C. Chapter 78 to operate vending facilities. Vending facilities established by blind vendors pursuant to the RSA and this Directive will co-exist with any facilities operated by VCS.*

(3) Consulting with OCAMES, prior to granting approval, if any service(s) other than Vending Machines are being considered for operation in this space;

(4) Notifying the Office of Regional Counsel, and seeking legal advice and assistance from the Regional Counsel as part of the planning process for any new owned or leased space to ensure compliance with the applicable requirements of the RSA;

(5) Advising their Network Director and OCAMES of all RSA solicitations, inquiries and correspondence received by the facility;

(6) Communicating and coordinating with the appropriate SLA to review, negotiate, and approve or disapprove blind vendor permit applications;

(7) Reviewing and approving or denying the SLA recommended 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;

(8) Inviting the SLA to respond to solicitations for offers when a cafeteria contract is contemplated; and

(9) In consultation with facility engineering personnel, providing scheduled status reports to their VISN identifying current, projected and pending occupation of space in their facilities meeting the threshold criteria under the RSA. Reporting would include copies of all correspondence with blind vendors and SLAs (including any unsolicited RSA inquiries or permit applications by blind vendors and SLAs), notifications, and final executed permits and cafeteria contracts or written denials of such permits and contracts.

g. **Veterans Canteen Service Chief or Facility Level Equivalent.** The Chief, Veterans Canteen Service (VCS) or facility level equivalent is responsible for:

(1) Advising VHA field facility leadership as well as VCS senior leadership of any correspondence or unsolicited request from an individual blind vendor or SLA for appropriate action;

(2) Working with the VHA field facility leadership, but not serving as the VHA field facility point of contact or program manager, to respond to request and inquiries; and

(3) Providing advice and guidance to the VA medical facility Director on the establishment of vending and café services within a VHA field facility.

h. **Office of General Counsel.** The Office of General Counsel is requested to:

(1) Provide legal advice and assistance to VHA in developing RSA compliance procedures;

(2) Advise and assist field facility Directors in complying with the RSA; and

(3) Provide assistance to the Under Secretary for Health in designating an individual to serve on an arbitration panel convened by the ED.

5. REFERENCES:

a. 38 U.S.C. 7301(b) and 7304.

b. 20 U.S.C. 107 et seq.

c. 34 CFR Part 395.

d. 38 U.S.C. 7801-7810.

- e. VA Directive 7632, Compliance with Randolph-Sheppard Act.

6. DEFINITION: Satisfactory site. A satisfactory site is a site fully accessible to the vending public with:

- a. A minimum of 250 sq. ft. for vending and storage; and
- b. Sufficient utilities in accordance with applicable codes.