

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF SERVICES FOR THE BLIND

(agency name)

Administrative Order No. 83-09

(1) I, PAUL DZIEDZIC, director of DEPARTMENT OF SERVICES FOR THE BLIND

do promulgate and adopt at 921 Lakeridge Drive, Room 202, Olympia, WA 98504 (place)

the annexed rules relating to:

WAC 67-35 - Vending Facility Program for the Blind

WAC 67-32 Repealer

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. 83-22-025 filed with the code reviser on 10/26/83. These rules shall take effect: XX thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[] (a) This rule is promulgated pursuant to RCW and is intended to administratively implement that statute.

[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

XX (c) This rule is promulgated under the general rule-making authority of the DEPARTMENT OF SERVICES FOR THE BLIND

(agency)

as authorized in RCW Chapter 194, Laws of 1983, Section 18

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

STATE OF WASHINGTON

APPROVED AND ADOPTED December 14 19 83

DEC 15 1983

By Paul Dziedzic Paul Dziedzic Director

Title

CODE REVISER'S OFFICE WSR 84-01-043

Chapter 67-35 WAC

VENDING FACILITY PROGRAM FOR THE BLIND

WAC

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NEW SECTION

WAC 67-35-010 DESCRIPTION--PURPOSE. The vending facility program for the blind is a part of the vocational rehabilitation program for the blind. The purpose of the vending facility program is to provide increased employment opportunities for blind citizens of the state, and at the same time, provide a visible demonstration of the normal skills of blind persons. The Washington state department of services for the blind, vending facility program, provides training and placement of blind persons in vending facilities. The primary function of this program is to provide the opportunity for the blind person to become a successful, independent business person. This is accomplished through varied informative training programs, establishment and maintenance of vending facilities, continuous professional guidance and administrative support. By legislation, blind persons participating in the vending facility program are given preference in the operation of vending facilities on federal, state, county, municipal, and other local governmental property.

NEW SECTION

WAC 67-35-020 PUBLIC INFORMATION--HOW TO APPLY. The public may obtain additional information about the program, including how to apply for services by contacting the vending facility program supervisor at the Department of Services for the Blind, 921 Lakeridge Drive, #202, Olympia, WA 98504-0088, phone (206) 754-1224, toll-free 1-800-552-7103; or by contacting department of services for the blind offices located in several large cities of the state. An application for service under the vending facility program may be made to a vocational rehabilitation counselor located in any office of the department of services for the blind.

NEW SECTION

WAC 67-35-030 TERMS DEFINED. The terms defined in this section shall have the indicated meaning when used in this chapter.

- (1) "Agreement" means that document issued by the department to a blind licensee assigning responsibility for the management of a designated vending facility in accordance with these rules and the terms and conditions of the permit or contract.
- (2) "Blind" means visual acuity of no more than 20/200 in the better eye with correcting lenses; or if visual acuity is greater than 20/200, a limitation in the field of vision of the better eye so that its widest diameter subtends an angle of no greater than 20 degrees as determined by an examination by a physician skilled in diseases of the eye, or an optometrist, whichever the person chooses.
- (3) "Blind licensee" or "licensee" means a person licensed by the department to operate a vending facility in the vending facility program, but who is not assigned a vending facility.
- (4) "Blind vendor" or "vendor" means a person licensed by the department to operate a vending facility in the vending facility program and who is assigned a vending facility.
- (5) "Contract" means the negotiated terms and conditions between the manager controlling federal or other property and the department covering the operation of a vending facility on federal or other property.
- (6) "Department" means the Washington department of services for the blind.
- (7) "Equipment" means all appliances, utensils, counters, cupboards, storage devices, furniture and other furnishings used in the operation of the vending facility, to which the department retains title.
- (8) "Federal property" means any building, land or other real property owned, leased or occupied by any department, agency or instrumentality of the United States including the department of defense and the United States postal service, or any other instrumentality wholly owned by the United States.
- (9) "License" means a written instrument issued by the department to a blind person authorizing that person to operate a vending facility on federal or other property.
- (10) "Management services" means supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. "Management services" does not include those services or costs which pertain to the ongoing operation of an individual facility after the initial establishment period.
- (11) "Other property" means property which is not federal property.
- (12) "Permit" means the official approval given the department by another department, agency or instrumentality in control of the maintenance, operation and protection of federal property, or a person in control of other property, whereby the department is authorized to establish a vending facility.
- (13) "Public building" means any building owned by the state of Washington or any political subdivision thereof, and any space leased by the state of Washington or any political subdivision thereof in any privately-owned building and designated by the department as being appropriate for inclusion in the vending facility program: PROVIDED, HOWEVER, That any vending facility or vending machine under the jurisdiction and control of another established state or local board or authority responsible for its maintenance and operation, shall not be designated without the consent of such state or local board or authority.
- (14) "Program" means the vending facility program, (also known as the business enterprises program) including all of the activities, obligations and relationships described in this chapter.
- (15) "Set aside funds" means any income from vending machines on federal property received by the department and not paid to vendors as income under provision of 45 C.F.R., section 1369.32 (b), (c) and (d).
- (16) "Vending facility" means cafeterias, snack bars, vending counters, vending carts, vending machines or any combination of the above, at which food, tobacco, refreshments or sundries are offered

for sale, and which operate under the vending facility program. Vending facilities will be identified by the following classifications:

(a) "Cafeteria" means a food dispensing vending facility capable of merchandising a broad variety of prepared foods and beverages. Characteristically, the cafeteria has specialized equipment, a food preparation area, and booths and tables for seating. Vending machines may be part of a cafeteria.

(b) "Dry stand" means a vending facility which merchandises, among other things, tobacco, sundries and prepackaged food and refreshment items. Characteristically, the dry stand has no specialized equipment for refrigerating or heating foods or beverages, nor any food preparation area. Merchandise is consumed away from the dry stand. Vending machines may be a part of the dry stand.

(c) "Lunch counter" means a vending facility which merchandises, among other things, lines of refreshment and food items suitable for a light meal. Characteristically, the lunch counter has specialized equipment for the refrigerating, cooking or heating of foods and beverages, and has a limited food preparation area. Merchandise may be consumed at or away from the lunch counter. Vending machines may be part of the facility.

(d) "Snack bar" means a vending facility which merchandises, among other things, limited lines of refreshment and prepared food items. Characteristically, a snack bar has specialized equipment for refrigerating or heating foods and beverages but has no food preparation area. Merchandise may be consumed at or away from the snack bar. Vending machines may be a part of the facility.

(e) "Vending machine facility" means a vending facility comprised of coin or currency operated machines merchandising, among other things, a variety of food and refreshment items. The vendor is responsible for the management of the machines and usually performs such functions as loading and servicing the machines and other customer-related services. Characteristically, there is no provision for booth or table seating at such a facility.

(17) "Vending machine" means any coin-operated machine offering food, refreshments, tobacco or sundries for sale.

NEW SECTION

WAC 67-35-040 ELIGIBILITY. To be eligible to enter the training program to become a blind licensee, the applicant must meet the following requirements:

- (1) Blind as defined in WAC 67-35-030(2);
- (2) A citizen of the United States;
- (3) Determined eligible for vocational rehabilitation services under 45 C.F.R., sections 1361.34 and 1361.35;
- (4) Found by a vocational rehabilitation thorough diagnostic study to possess adequate alternative skills to the use of vision in reading, writing and independent travel;
- (5) Has successfully completed a work evaluation in vending facility management conducted in Seattle by the vending facility program staff.

NEW SECTION

WAC 67-35-045 LICENSEE AN INDIVIDUAL PERSON--NOT A CORPORATE ENTITY. The status of a licensee is a relationship between the department and an individual who is blind. A corporation cannot receive a license nor otherwise receive services and considerations under this chapter or other department programs. This rule will not

affect the individual's right to establish a corporation for purposes other than services and considerations under this chapter or other department programs.

NEW SECTION

WAC 67-35-050 LICENSEE TRAINING. The department operates a training course for those who have met the requirements in WAC 67-35-040. In accepting persons into the training course, preference is given to those who are in need of work, otherwise persons are entered into the course according to the earliest application. The department maintains a course which includes training and experience with written criteria which the trainee must achieve. The training course is of undetermined length, and the time of completion depends upon the trainee's ability to meet the criteria set forth in the course. Upon successful completion of the course, the trainee receives a license and is eligible for benefits granted a licensee in this chapter.

NEW SECTION

WAC 67-35-055 LICENSEE--FORMER OR CURRENT OUT-OF-STATE. Any individual currently licensed in another state or who formerly held a license which was terminated in this program in the state of Washington may attempt, for a minimum two-week period, to demonstrate at a department operated training facility their knowledge and ability to manage a vending facility. If he/she is successful in this attempt, this trainee will be granted a license, will receive the minimum basic evaluation score of thirty-five points, and will be eligible for benefits granted a licensee in this chapter.

NEW SECTION

WAC 67-35-060 SELECTING A LICENSEE OR VENDOR TO OPERATE VENDING FACILITY--NOTICE. When a vending facility becomes available a "notice of available facility" is prepared by the vending facility program staff and sent to all licensees and vendors. The "notice of available facility" will contain sufficient information to enable licensees and vendors to determine if they are interested in applying to become the vendor in the available facility. A closing time and date for accepting applications is specified in the "notice", but in no event shall the closing time be less than ten business days from the date of mailing, unless the department declares an emergency requiring less than ten business days notice. Applications may be accepted in writing or by telephone. Lack of response from a licensee or vendor within the allotted time period will be considered to be a negative response. Applications are time and date stamped when they are received.

NEW SECTION

WAC 67-35-070 SELECTING A LICENSEE OR VENDOR TO OPERATE VENDING FACILITY--PROCEDURE. (1) To select a licensee or vendor to operate an

available vending facility, a basic evaluation score is computed for each licensee or vendor. The basic evaluation score will reflect an operator's level of competency as measured by the financial activities of the vending facility and compared to vending facilities which operations are more similar than dissimilar. To achieve relative ranking of vendor and licensee effectiveness, vending facilities have been grouped into ten classifications: Dry stands; snack bars under \$100,000 annual gross sales; snack bars over \$100,000 annual gross sales; lunch counters under \$100,000 annual gross sales; lunch counters over \$100,000 annual gross sales; cafeterias under \$100,000 annual gross sales; cafeterias from \$100,000 to \$200,000 annual gross sales; cafeterias over \$200,000 annual gross sales and/or those with limited income percentage; vending machines grouped to form a facility; and department training cafeteria. For each group of vending facilities, an average percent is calculated for each item used in the evaluation. Points are assigned to percentages which deviate from the average to reward superior management and to discourage overpricing and excess profiteering. One point for each year of experience in the vending facility program up to five years and .2 point for each year of experience in the vending facility program beyond five years is added to the basic evaluation score to obtain the final evaluation score. Each federal fiscal year the average percentage for the three items of evaluation will be calculated for each of the ten groups of vending facilities, and vendors shall be informed in writing of the average percentages and to which classification their vending location is assigned. Any vending facility which, as a result of modification, belongs in a different facility classification will be assigned to that classification and will use the average percentages applicable to that classification.

(2) The basic evaluation score for a vendor is determined by using three items reported on the vendor's quarterly report: Cost of merchandise sold; all other operating costs; and net profit. The vendor will separately report the value of any volunteer labor received which is essential to the operation of the facility; the cost of purchasing; leasing or renting equipment; and income received from any personnel training programs for the purpose of adjusting the category of "all other operating expenses." Income received from vending machines not managed or operated by the vendor shall not be considered in the evaluation process. Cost of merchandise sold, adjusted all other operating expenses, and adjusted net profit is determined and converted into a percentage of gross sales. The percentages in each category are converted to points, as shown in WAC 67-35-080, and the sum of the three separate scores becomes the basic evaluation score. The basic evaluation score for each of the most current two quarters will be averaged, and this average plus points earned by seniority becomes the evaluation score except that the quarter in which a licensee or operator assumes responsibility for a new or different location shall not be included in the two most current quarters used in determining an evaluation score.

(3) A trainee shall receive a basic evaluation score by the same method as set forth in subsection (2) of this section except that the period of basic evaluation shall include those months when a trainee is in certification training and is managing a vending facility under the training program of the department of services for the blind. The basic evaluation score shall be computed monthly, and adjustment factors are not used.

(4) The licensee or vendor applying for an available facility and having the highest evaluation score shall be designated the vendor of the available facility except as provided for in subsections (5) and (6) of this section.

(5) No vendor or licensee who has been designated to operate an available vending facility will within the next six months thereafter be designated to operate a subsequently available vending facility, unless such vendor(s) or licensee(s) is (are) the only applicant.

(6) The loss of any vending facility to the vending facility program for reasons beyond the control of the vendor assigned that facility, as determined by the staff of the vending facility program, shall

permit assignment of the next available vending facility to that vendor without respect to other provisions of this section. Any vendor so assigned may make application for a subsequently available facility without respect to subsection (5) of this section.

(7) A licensee or vendor who has applied for a vending facility under WAC 67-35-060 may upon request receive a review of the correctness of the selection process from the director of the department or his/her designee. The review must be requested within ten calendar days of the completion of the selection process for which the licensee or vendor has applied. The director or his/her designee will inform the licensee or vendor of the review findings within ten days of the request.

NEW SECTION

WAC 67-35-075 SELECTION OF A LICENSEE OR VENDOR TO OPERATE A VENDING FACILITY DURING A LEAVE OF ABSENCE OF A VENDOR. When a vendor is granted a leave of absence in accordance with WAC 67-35-415, all licensees and vendors will be informed of the available location. The terms and conditions of the leave of absence and selection of the licensee or vendor will be in accordance with the selection processes utilized for the selection for any available location. A licensee or vendor assuming the responsibility for a location and entering into an agreement in accordance with WAC 67-35-090 of this chapter will, during a leave of absence of the assigned vendor, be entitled to the profits, or salary or profits, generated by the location in accordance with all contracts and agreements, and will be given thirty days notice prior to the termination of the leave of absence.

A licensee assuming responsibility for a location, who wishes to be considered for selection into an available location as a vendor, will retain his/her certification score until a score can be given based upon his/her performance in the location in the same way that all vendors achieve scores.

NEW SECTION

WAC 67-35-080 LICENSEE OR VENDOR EVALUATION FORM--EXPLANATION. A licensee or vendor may accumulate a maximum of 25 basic evaluation points for the item of "cost of merchandise sold"; a maximum of 20 basic evaluation points for the item of "adjusted all other operating costs"; and a maximum of 30 basic evaluation points for the item of "adjusted net profit" for a maximum basic evaluation score of 75 points.

(1) Dry stands

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each .33% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .33% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each 1% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each percentage point beyond that necessary to earn 30 points, 1 point

shall be deducted from 30 points. For each 1% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(2) Snack bar under \$100,000 annual gross sales

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each .5% greater than the average, 1 point shall be deducted from 15 points, to a minimum of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each 1% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each percentage point beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each 1% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(3) Snack bar over \$100,000 annual gross sales

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each 1% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each 1% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each 1% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each 1% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each 1% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each 1% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each percentage point beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each 1% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(4) Lunch counter under \$100,000 annual gross sales

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% greater than the average, 1 point shall be deducted from 20 points, to a minimum of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each .5% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each 1% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each percentage point beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each 1% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(5) Lunch counter over \$100,000 annual gross sales

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each 1% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each 1% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each 1% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each 1% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each 1% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each 1% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each percentage point beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each 1% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(6) Cafeteria under \$100,000 annual gross sales

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each 1% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each 1% greater than the average, 1 point shall be deducted from 20 points, to a minimum of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each 1% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each 1% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each 1% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each 1% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each percentage point beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each 1% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(7) Cafeteria from \$100,000 to \$200,000 annual gross sales

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each 1% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each 1% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each .66% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .66% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each .66% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each 1% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each percentage point beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each 1% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(8) Cafeterias over \$200,000 annual gross sales and/or those with limited income

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each 1% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each 1% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each .5% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each .5% greater than the average, 1

point shall be added, to a maximum of 10 additional points. For each .5% beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each .5% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(9) Vending machines grouped to form a facility

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each .2% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .2% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each .33% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each .33% beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each .33% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(10) Department training cafeteria

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% greater than the average, 1 point shall be deducted from 20 points, to a minimum of zero.

For the item of "all other operating costs," the average percentage shall receive 15 points. For each .33% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .33% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each .33% greater than the average, 1 point shall be deducted from 15 points, to a minimum of zero.

For the item of "net profit," the average percentage shall receive 20 points. For each .5% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each .5% beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each .5% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

NEW SECTION

WAC 67-35-090 ASSIGNMENT TO A VENDING FACILITY--AGREEMENT. To execute the assignment of a licensee or vendor to a vending facility, the licensee or vendor shall enter into an agreement with the department which states the terms and conditions of the assignment to the specific vending facility. The department will provide each vendor with a copy of these rules which include the description of the arrangements for providing services. The department will take adequate steps to assure that each vendor understands the provisions of any permit, contract or agreement under which he/she operates as evidenced by the vendor's signed statement. An existing agreement between the department and a vendor is automatically terminated when the vendor signs a new agreement with the department.

NEW SECTION

WAC 67-35-100 POSTEMPLOYMENT SERVICES. A vendor shall be provided with such postemployment services as are necessary to assure that the maximum vocational potential of each blind vendor is achieved. The postemployment services will be provided by the vocational rehabilitation counselor. Postemployment services will be provided in accordance with 45 C.F.R., section 1361.40(a)(13).

NEW SECTION

WAC 67-35-110 DISCRIMINATION PROHIBITED. The department, through its staff or any other agency, through any contract, permit or agreement is prohibited from discriminating against any licensee or vendor on the basis of race, color, sex, national origin, creed or religion, physical or mental impairment, age, marital status or political affiliation.

NEW SECTION

WAC 67-35-120 STATE COMMITTEE OF BLIND VENDORS--ELECTION--REPRESENTATION--MEETINGS. The committee of blind vendors consists of seven vendors elected by vendors divided into three geographical areas. One committee vendor is elected by vendors in eastern Washington (east of the Cascade Mountains). Three committee vendors are elected by vendors in northwest Washington including Pierce county thru Whatcom county. Two committee vendors are elected by vendors in southwest Washington including Thurston county thru Clark county. One committee vendor is elected at large by all vendors on a state-wide basis.

(1) Members of the committee are elected for a two-year term and are elected during the month of January of each even-numbered year. Any vendor serving as a representative who chooses to transfer or promote to a vending facility outside the area that individual represents thereby relinquishes membership in the vendors committee. The vendors in an area having lost such representation shall elect a replacement for the remainder of that term. All vendors are entitled to vote in the election. The committee elects its own chairperson.

(NOTE: The vendors are urged to constitute the blind vendors committee so that it is representative of the various types of vending facilities including those established on federal and nonfederal property and those that are cafeterias, snack bars, dry stands, lunch counters and vending machine facilities.)

(2) There are two scheduled blind vendor committee meetings per year. Additional meetings can be called by the supervisor of the vending facility program or by the chairperson of the blind vendors committee.

(3) The department will conduct all elections and pay for all expenses in connection therewith and publish the results.

NEW SECTION

WAC 67-35-130 BLIND VENDORS COMMITTEE--PURPOSE. The blind vendors committee shall:

- (1) Actively participate with the department in major administrative decisions and policy and program development decisions affecting the overall administration of the vending facility program;
- (2) Receive and transmit to the department grievances at the request of vendors, and serve as the advocates for such vendors in connection with such grievances;
- (3) Actively participate with the department in the development and administration of the department's system for the transfer and promotion of vendors;
- (4) Actively participate with the department in the development of training and retraining programs for vendors;
- (5) Sponsor, with the assistance of the department, meetings and instructional conferences for vendors.

NEW SECTION

WAC 67-35-140 VENDING MACHINE INCOME DISPERSED BY DEPARTMENT. Vending machine income from vending machines on federal property which has been received by the department pursuant to 45 C.F.R., section 1369.32 (b), (c) and (d) shall be paid to each blind vendor (if any) operating a vending facility on such federal property in an amount not to exceed the average income of all blind vendors in the state of Washington as determined each fiscal year on the basis of each prior year's operation, or the average net income of all blind vendors in the United States, whichever is less.

- (1) No vendor shall receive less vending machine income than he/she was receiving during the calendar year 1973 as a direct result of any limitation imposed on such income by this section.
- (2) No limitation shall be imposed on income from vending machines combined to create a vending facility, when such facility is maintained, serviced or operated by a blind vendor.
- (3) The department shall disperse vending machine income to vendors on at least a quarterly basis.
- (4) Vending machine income from vending machines on federal property received by the department and not eligible for distribution to blind vendors under the provisions of this section shall be retained by the department.
- (5) Vending machine income which is retained under subsection (4) of this section shall be used by the department for the establishment and maintenance of retirement or pension funds, for health insurance contributions, and for the provision of paid sick leave and vacation time, for vendors, if it is so determined by a majority vote of all vendors after the department has provided to each vendor information on all matters relevant to such purposes. Any vending machine income not necessary for such purposes shall be used by the department for the maintenance and replacement of equipment, the purchase of new equipment, management services, and assuring a fair minimum return to vendors.

NEW SECTION

WAC 67-35-150 FEDERAL VENDING MACHINE INCOME--USE AS DETERMINED. Vending machine income received by the department as described in WAC 67-35-140(4) shall be known as federal vending machine income. Federal vending machine income shall be used for the establishment and

maintenance of retirement or pension funds, health insurance, the provision of paid sick leave and vacation time for vendors, the repair of vending facility equipment, the replacement of obsolete or worn-out vending facility equipment, the purchase of new or additional vending facility equipment in existing facilities, management services, and the costs necessary to the conduct of the state blind vendors committee.

(1) After the majority of all vendors have voted to utilize federal vending machine income for retirement or pension, health insurance, paid sick leave or paid vacations, the department may adopt procedures for implementing such plans.

(2) Vendors whose income from their vending facility is at the national average or above for all vendors as determined each federal fiscal year on the basis of each prior year's operation shall pay repair charges for each separate repair job on vending facility equipment of fifty dollars or ten percent of the cost of repair, whichever is greater. For purposes of this paragraph, repair or a repair job shall mean the cost associated with a single visit of a repair technician to a vending facility without respect to the amount of equipment being repaired, or multiple visits, and/or contact relative to the repair of a single item.

(3) Vendors whose income from their vending facility is below the national average of such income for all vendors as determined each federal fiscal year on the basis of each prior year's operation shall pay a voluntary amount for each separate repair job on vending facility equipment at their facility.

(4) The remainder of the charges for repair or maintenance of vending facility equipment described in subsections (2) and (3) of this section shall be paid for from set aside funds. If set aside funds are entirely depleted, the vendor shall pay the costs of repair of vending facility equipment at his/her facility.

(5) For purposes of this section vending facility equipment shall include equipment provided by the department and equipment furnished as a part of the contract or permit for which the department and operator assumes the responsibility of maintenance.

NEW SECTION

WAC 67-35-160 BUSINESS ENTERPRISES REVOLVING FUND. There is established in the general fund of the state of Washington an account known as the business enterprises revolving fund. The net proceeds from any vending facility or any vending machines in a public building, other than such an operation managed by or assigned to a vendor, shall be made payable to the business enterprises revolving fund. Net proceeds for purposes of this section shall mean the gross amount received less the cost of the operation including a fair minimum return to the vending machine company.

NEW SECTION

WAC 67-35-170 BUSINESS ENTERPRISES REVOLVING FUND--USES. All moneys in the business enterprises revolving fund shall be expended only for equipment, services and payment to vendors in the vending facility program.

NEW SECTION

WAC 67-35-180 ACCESS TO PROGRAM AND FINANCIAL INFORMATION. The department shall provide to any interested person program and financial information and interpretation concerning the operation of the program, except that confidential information concerning any applicant, trainee, licensee or vendor shall not be released directly or indirectly without written permission of such applicant, trainee, licensee, or vendor as specified in Title 45 CFR, Chapter 8, Part 1361.47; chapter 42.17 RCW and attendant regulations; and department policy B-21.

NEW SECTION

WAC 67-35-190 DEPARTMENT RESPONSIBILITY--DEVELOPMENT OF NEW VENDING FACILITY LOCATIONS. The staff of the vending facility program will select suitable locations for vending facilities and negotiate with the property management a permit or contract specifying the space to be occupied, hours of operation, services and articles to be vended, equipment to be installed and other items as required. The permit or contract will be executed between the department and the management of the property where the vending facility is located.

NEW SECTION

WAC 67-35-200 DEPARTMENT RESPONSIBILITY--ARCHITECTURE AND CONSTRUCTION. The department will select and provide architectural services and follow through on construction of the facility, within the guidelines prescribed by the state department of general administration, division of engineering and architecture, the state division of health and the local health department having jurisdiction.

NEW SECTION

WAC 67-35-210 DEPARTMENT RESPONSIBILITY--INITIAL EQUIPMENT--INITIAL STOCK AND SUPPLIES. The department will provide suitable initial equipment necessary for the efficient operation of the vending facility. The department will provide funds for the initial stock and supplies, necessary business licenses, fees and deposits, and minimum operating cash required to commence operation of the facility, as determined by the vending facility program.

NEW SECTION

WAC 67-35-220 TITLE TO INITIAL EQUIPMENT--RIGHT TO INITIAL STOCK AND CASH. The right, title to and interest in initial equipment as provided for in WAC 67-35-210 will be vested in the department. The right to and interest in the initial stock, and minimum operating cash provided under WAC 67-35-210 shall continue with the department to the extent that should the vendor discontinue to operate the vending facility, the vendor or vendor's heirs will furnish to the department

an equal monetary amount of saleable stock and cash which may be transferred to the next vendor.

NEW SECTION

WAC 67-35-230 DEPARTMENT RESPONSIBILITY--MAINTAINED FACILITY. The department will, within program resources, maintain or cause to be maintained each facility in good repair and attractive condition. The department will, within program resources, or in accordance with terms and conditions of the permit or contract, replace, or cause to be replaced obsolete or worn-out equipment.

NEW SECTION

WAC 67-35-240 DEPARTMENT RESPONSIBILITY--VENDOR-OWNED EQUIPMENT. The vendor may purchase with the knowledge of the department vending facility equipment. The department shall retain a first option to repurchase such equipment if vendor places the equipment up for sale. In the event the vendor dies, or for any reason ceases to be a vendor, ownership of such equipment that is necessary for the operation of the facility shall become vested in the department for transfer to a successor vendor subject to an obligation on the part of the department to pay to the vendor, or the vendor's estate the fair value of the equipment. The vendor, the vendor's personal representative or next of kin shall be entitled to an opportunity for a full evidentiary hearing with respect to the determination of the necessity of the equipment or the amount to be paid by the department for the vendor's ownership in the equipment. When dissatisfied with any decision rendered as the result of such hearing, the vendor, the vendor's personal representative or next of kin, may file a complaint with the secretary under 45 C.F.R., section 1369.13 to request the convening of an ad hoc arbitration panel.

NEW SECTION

WAC 67-35-250 DEPARTMENT RESPONSIBILITY--ADVANCE TRAINING. The department will provide vendors with an opportunity to obtain training and information so as to increase their skills and assist them in upward mobility. This training and information shall include training provided by the vending facility program; opportunity to engage in home study through the use of tape recorded instructions provided by the department; and at least one instructional meeting per year conducted by the blind vendors committee with the assistance of the department.

NEW SECTION

WAC 67-35-260 DEPARTMENT RESPONSIBILITY--OPENING FOR BUSINESS. The department will assist the vendor upon request in procuring the necessary business licenses and permits; in selecting the necessary

employees; and otherwise assist a vendor in opening a new facility for business.

NEW SECTION

WAC 67-35-270 DEPARTMENT RESPONSIBILITY--CONSULTATION. The staff of the vending facility program is available to the vendor during regular office hours either in person or by telephone, to work with the vendor in resolving problems; and to develop procedures to secure a maximum net profit for the vendor; the maximum service to the patrons; and a feeling of cooperation between building management, the blind vendor and the department.

NEW SECTION

WAC 67-35-280 DEPARTMENT RESPONSIBILITY--INSPECTION--REQUIRED CONTACTS. The vending facility program staff will make bimonthly inspections of the vending facility. The results will be reviewed with the vendor to determine if improvements can be made, and if so, what actions should be taken. To the maximum extent possible the bimonthly inspections will occur at various times of the day so as to include the different activities of the vending facility. The vending facility program staff upon adequate notice to the vendor shall inspect records and reports kept by the vendor.

NEW SECTION

WAC 67-35-290 DEPARTMENT RESPONSIBILITY--CONTACT WITH PROPERTY MANAGEMENT. The staff of the vending facility program will make regularly scheduled contacts with the property management person controlling the property where the vending facility is located to determine if terms of the permit or contract are being met and to process any other problems or requests which may exist.

NEW SECTION

WAC 67-35-300 DEPARTMENT RESPONSIBILITY--NEGOTIATION WITH VENDING MACHINE COMPANIES. The staff of the vending facility program may negotiate agreements with vending machine companies for the installation of vending machines in public buildings and determine where the net proceeds from each machine shall go.

NEW SECTION

WAC 67-35-310 PUBLIC LIABILITY INSURANCE. The vendor shall obtain and maintain continuously public liability insurance with limits of liability not less than:

\$500,000.00 each person personal injury,
 \$500,000.00 each occurrence personal injury, and
 \$500,000.00 each occurrence property damage; or
 insurance coverage specified in the permit or contract,
 which ever is greater.

NEW SECTION

WAC 67-35-320 VENDOR RESPONSIBILITY--INDEPENDENT--NOT STATE EMPLOYEE. The vendor is an independent vendor in the vending facility program and in no way can be considered to be an employee of the department. The blind vendor receives all profits from the vending facility except as provided for in WAC 67-35-140(4).

NEW SECTION

WAC 67-35-330 VENDOR RESPONSIBILITY--APPLICABLE FEDERAL AND STATE LAWS, RULES AND REGULATIONS. The vendor will assume responsibility for securing and renewing all necessary business licenses and paying all fees required by and for the operation of the facility. It is the responsibility of the vendor to operate the facility in accordance with all federal and state laws, rules and regulations; including applicable health laws, rules and regulations.

NEW SECTION

WAC 67-35-340 VENDOR RESPONSIBILITY--VENDING FACILITY MANAGEMENT--NONDISCRIMINATION. The vendor is responsible for maintaining a high level of customer service to assure the maintenance of the vending location and accommodate within reasonable limits other persons who may come to the facility. Determination of appropriate vending facility management activities will be in accordance with generally accepted practices in the food service industry and satisfaction of the building population and the building management. No customer or employee can be discriminated against by reason of race, color, sex, national origin, creed or religion, physical or mental impairment, age, marital status or political affiliation.

NEW SECTION

WAC 67-35-350 VENDOR RESPONSIBILITY--MAINTAINING EQUIPMENT. The vendor will be responsible to exercise proper care of and maintain all equipment and furnishings assigned to the facility including proper cleanliness and mechanical repair of equipment, unless otherwise specified by the terms and conditions of a permit or contract. If the vendor fails to maintain equipment which results in necessary repair, the department may require necessary repair of such equipment and the cost of such required repair may become the sole responsibility of the vendor.

NEW SECTION

WAC 67-35-360 VENDOR RESPONSIBILITY--MISCELLANEOUS EQUIPMENT--INITIAL STOCK AND SUPPLIES--MINIMUM OPERATING CASH. It is the vendor's responsibility to maintain miscellaneous equipment, initial stock and supplies, and minimum operating cash originally furnished by the department, unless otherwise specified by the terms and conditions of a permit or contract. Any vendor whose agreement with the department has been terminated for any reason is responsible to return to the department miscellaneous equipment, initial stock and supplies, and minimum operating cash equal in monetary value to those originally furnished by the vending facility program. Any vendor refusing to comply with the responsibilities in this section shall have their license terminated.

NEW SECTION

WAC 67-35-370 VENDOR RESPONSIBILITY--COOPERATE. It is the responsibility of the vendor to cooperate with the duly authorized representative of the department in connection with their official responsibilities; to take no action derogatory to, or inconsistent with the paramount right, title and interest of the department of services for the blind to the vending facility, its equipment, or the contract or permit with the management of the property where the facility is located.

NEW SECTION

WAC 67-35-380 VENDOR RESPONSIBILITY--REPORTS. It is the vendor's responsibility to submit such reports of the operation of the vending facility at such times, and in such formats, as the department may from time to time require. The reports may include, but not necessarily be limited to, the following items for the reporting period: Gross sales, beginning inventory, purchases, ending inventory, gross profit, personnel costs, other expenses, total expenses, net profit, percentage of profit, other income and total profit.

NEW SECTION

WAC 67-35-390 VENDOR RESPONSIBILITY--ACCOUNTS PAYABLE. The vendor will be responsible for the payment of all goods and services, materials and merchandise, received from suppliers subsequent to the initial stock and supplies provided by the department. The vendor must assure each supplier that accounts are based on the vendor's credit record or reference.

NEW SECTION

WAC 67-35-400 VENDOR RESPONSIBILITY--EMPLOYMENT OF STAFF. The vendor is responsible for sufficient staff to assure the efficient

operation of the facility and to provide adequate service to the customers. The vendor's relationship to his/her employed staff shall be the normal employer-employee relationship existing in private business enterprises.

(1) In the employment of a temporary relief vendor the vendor shall give preference to a licensee of the vending facility program.

(2) The vendor will maintain all records, make all payments, and make all reports required of an employer by federal, state and local statutes.

(3) The vendor will pay employees an agreed upon wage in accordance with applicable state and federal laws and/or contract provisions.

NEW SECTION

WAC 67-35-410 VENDOR RESPONSIBILITY--REBATES. Rebates, commissions or bonuses received by the vendor from suppliers must be accounted for as income of the vending facility. Under no circumstances can such funds be treated as separate personal funds of the vendor.

NEW SECTION

WAC 67-35-415 LEAVE OF ABSENCE FOR PROLONGED ILLNESS OR PHYSICAL INCAPACITY. A vendor in the business enterprises program may request and may be granted a leave of absence for a period of up to twelve months.

A vendor may request a leave of absence when the vendor is unable to maintain his/her responsibilities in a location by reason of a physical or mental condition. A leave of absence will be granted to a vendor:

(1) Only when such request is initiated by that vendor; and

(2) When the mental or physical condition is verified by a medical doctor licensed to practice in the state of Washington; and

(3) Such condition is so prolonged and/or so serious as to cause strong doubt on the part of the vendor and the agency as to the vendor's capacity to maintain full management of his/her location; and

(4) For a total maximum period not to exceed twelve months.

The vendor who has been granted a leave of absence will retain his/her license. His/Her agreement to manage a location will be held in abeyance during the leave of absence.

A leave of absence will be terminated by the department at the end of twelve months or sooner, and the vendor will resume the responsibility for his/her location and the agreement reinstated when the mental or physical condition no longer prohibits the vendor from maintaining responsibilities for his/her location.

(5) When verified by a medical doctor licensed to practice in the state of Washington; and/or

(6) When verified by a statement of completion of a program of training or retraining designed to overcome the effects of the mental or physical condition necessitating a leave of absence.

A leave of absence will be terminated by the department at the end of twelve months or sooner, and the vendor's license and/or agreement will be terminated:

(a) When the mental or physical condition is of such duration or severity, as verified by a medical doctor licensed to practice in the state of Washington, that it renders the vendor unable to resume responsibility for the management of that location; and/or

(b) When the vendor fails to complete a program of training or retraining designed to overcome the effects of the mental or physical condition and is unable to resume responsibility for the management of that location.

Upon granting a vendor a leave of absence, the department will assume responsibility for that vendor's location. The department will select a licensee or vendor to manage the location. In the event a licensee or vendor is not available to assume the responsibility of location while the vendor is on a leave of absence, the department may make such arrangements as necessary to assure the ongoing management of such location. Any profits available in excess to those necessary to secure the management of the location shall accrue to the business enterprises revolving fund.

NEW SECTION

WAC 67-35-420 TERMINATION OF LICENSE--TERMINATION OF AGREEMENT FOR CAUSE ONLY. The license to participate in the program is issued for an indefinite period of time. However, the vendor's license and vendor's agreement with the department may be terminated after a thirty-day notice and/or after affording the vendor or licensee an opportunity for a full evidentiary hearing if the department finds that the vending facility is not being operated in accordance with its rules, the terms and conditions of the permit or contract, or the terms and conditions of the agreement between the vendor and the department. Following the completion of the thirty-day notice the vendor's license will be terminated and the vendor's agreement shall be terminated pending completion of the full evidentiary hearing process, the convening of any ad hoc arbitration panel and court review. Following termination of the vendor's agreement the department will operate the vending facility until any grievance procedure is completed. The net profit from the operation of the vending facility during this time will be placed in trust in the business enterprises revolving fund for disbursement in accordance with any final decision of the grievance process.

NEW SECTION

WAC 67-35-425 TERMINATION OF VENDOR'S AGREEMENT--NOT AFFECTING LICENSE. A vendor's agreement will be terminated without affecting license under any of the following three conditions:

- (1) When a vendor ceases to be a vendor of an existing vending facility by voluntary withdrawal in writing;
- (2) When the vending facility ceases to be a vending facility by revocation of the permit or contract by either the department or by building management;
- (3) When the vendor signs a new vendor agreement.

NEW SECTION

WAC 67-35-430 LICENSE SUSPENSION PRIOR TO EVIDENTIARY HEARING. If the department determines that its right, title to and interest in a vending facility is in eminent jeopardy due to the action, or lack of action of the vendor or licensee, the department may suspend or terminate the license of the vendor or licensee and remove the vendor

or licensee from the vending facility, pending an informal resolution of the problem, a full evidentiary hearing, or the decision of an ad hoc arbitration panel. For purposes of this section, the department's interest in a vending facility includes the safety and well-being of the patrons of such facility.

NEW SECTION

WAC 67-35-440 SUSPENSION OR TERMINATION OF LICENSE--OTHER REASONS. The license of a licensee or vendor may be suspended or terminated automatically for any of the following reasons:

- (1) Improvement of vision so that the licensee or vendor no longer meets the definition of blindness in WAC 67-35-030(2);
- (2) Withdrawal of the licensee or vendor from the program upon written notification to the department.

NEW SECTION

WAC 67-35-450 TERMINATION OF LICENSE--DISUSE. If after two years the licensee has not participated in any of the vending facility programs as identified in this chapter, the department will terminate the license after a thirty-day notice and/or after affording the licensee an opportunity for a full evidentiary hearing.

NEW SECTION

WAC 67-35-460 RELICENSING. When a licensee's or vendor's license has been suspended by the department, he/she must meet the requirements in WAC 67-35-040, and must demonstrate competency in meeting the criteria of the training course through a period of evaluation or retraining at the department of services for the blind in order to become relicensed. Upon relicensing, the licensee or vendor shall retain his/her last previously established evaluation score.

NEW SECTION

WAC 67-35-470 ADMINISTRATIVE REVIEW. All licensees and vendors will be advised of their right to an administrative review on any decision or action, or inaction, taken by the department regarding service provided the licensee or vendor under this chapter, or request for such service. The request for an administrative review must be filed within thirty days of the date of the decision, action or inaction, or lack of service being appealed.

The request for an administrative review may be made verbally or in writing and may be filed in any office of the department. A verbal request will promptly be reduced to writing by the department staff member receiving the request, and shall include the name and address of the licensee or vendor requesting the administrative review, the name and address of the representative (if any) of the licensee or vendor; the date of the request for administrative review; the date of the decision or action, or inaction, being appealed; as precisely as

possible the issue to be resolved by the administrative review; and the signature of the licensee or vendor, or his/her representative.

NEW SECTION

WAC 67-35-480 ADMINISTRATIVE REVIEW--WHO--WHEN--WHERE. The administrative review will be conducted by the supervisor of the vending facility program unless the supervisor is a party to the decision, action or inaction being reviewed, in which case the supervisor's supervisor shall conduct the administrative review. The administrative review will be held and a decision rendered within fifteen days of receipt of a request for administrative review. The review will be held at a department office or in a location selected by the department in the county in which the licensee or vendor resides. Upon request of the vendor or licensee, the department may arrange and pay for transportation from the vendor's or licensee's home to the place of the hearing and return. The rate of payment will be at the current state allowance for state employees. Upon request of the vendor or licensee, the department may arrange for and pay a reader or other communication service to be available to the vendor or licensee for the purpose of reviewing materials directly pertinent to the administrative review. The reader or other communication service will be paid the current federal minimum wage. Upon request of the vendor, the department may arrange for and pay a relief operator during the vendor's absence from the vending facility for the purpose of administrative review. Within funds available the costs (1) for transportation, (2) for a reader or other communication service, and (3) for a relief operator shall be paid as management services as set forth in WAC 67-35-150. After the conclusion of the administrative review the person conducting the administrative review will certify his/her findings to the licensee or vendor in writing, specifying in detail the findings and decision of the administrative review, and informing the licensee or vendor of his/her right to request a full evidentiary hearing if dissatisfied with the decision.

NEW SECTION

WAC 67-35-490 FULL EVIDENTIARY HEARING. A licensee or vendor who desires a full evidentiary hearing will request such hearing within thirty days after receiving notice from the department of the findings and decision of the administrative review, or within thirty days of the department's failure to hold a fair hearing, or to render a decision in a fair hearing. The request for a full evidentiary hearing may be made verbally or in writing, and may be filed in any office of the department. If made verbally such request will promptly be reduced to writing as specified in WAC 67-35-470. A full evidentiary hearing shall be provided by the director of the Washington department of services for the blind, or his/her designee; and will be held within thirty days after the submission of the request. The full evidentiary hearing will be held in a location as specified in WAC 67-35-480.

NEW SECTION

WAC 67-35-500 FULL EVIDENTIARY HEARING--RIGHT TO INFORMATION. Upon the filing of a request for a full evidentiary hearing the licensee or vendor shall be informed of all information in the case file and shall have the right of access to, and may examine any file or record owned by the department regarding his/her case which may contain information relevant and material to his/her grievance; except for documents and information disclosure of which is prohibited by federal or state law, and/or rules and regulations. This right of access to and examination of information shall be extended to the licensee's or vendor's representative, attorney and/or the blind vendors committee when functioning as an advocate for the licensee or vendor if so authorized in writing by the licensee or vendor or his/her legal guardian.

NEW SECTION

WAC 67-35-510 FULL EVIDENTIARY HEARING--TRANSCRIPT. A transcript of the testimony of the full evidentiary hearing will be made by the department, and a copy of this transcript shall be made available to the aggrieved party upon request.

NEW SECTION

WAC 67-35-520 FULL EVIDENTIARY HEARING--DECISION IN WRITING. Within ten working days after the conclusion of the full evidentiary hearing the director of the department or his/her designee will certify findings to the licensee or vendor in writing specifying in detail the findings and the decision reached, and informing the licensee or vendor of his/her right to request from the secretary of the United States department of health, education and welfare the convening of an ad hoc arbitration panel as provided for in 45 C.F.R., section 1369.13 and section 1369.6(e).

NEW SECTION

WAC 67-35-525 HEARING OFFICER--CERTAIN PURPOSES. For the purpose of the provisions of WAC 67-35-490, 67-35-520 and 67-35-070(7), the director will contract with a hearing officer who will be an attorney licensed to practice in the state of Washington or will contract with another state agency for the services of a hearing officer(s) who will be equally qualified. Within funds available, the hearing officer may be paid as a management service as set forth in WAC 67-35-150 when hearing the appeals of vendors and licensees.

NEW SECTION

WAC 67-35-910 AGREEMENT. This AGREEMENT entered in this day of, 19... by and between the Department of Services for the Blind, hereinafter referred

to as the department, and, hereinafter referred to as the vendor.

Name and Address of Facility
City:, Washington

IT IS HEREBY AGREED:

1. The provisions of the permit or contract between the department and the property management as now exists or as may be renegotiated in the future, and chapter 67-35 WAC (the Vending Facility Program rules), which described the rights and responsibilities of the department and the rights and responsibilities of the vendor, as presently exist or as may be amended in the future, are both by reference incorporated into and made part of this agreement.
2. The vendor is entitled to all profits of the vending facility, and vending machine revenue from site, except as provided for in WAC 67-35-140.
3. The vendor is responsible to submit reports to the department as required.
4. The vendor must maintain the business hours agreed upon or as stated in the permit or contract.
5. The vendor shall receive a copy of the permit or contract and all applicable department rules.
6. The vendor shall obtain and maintain continuously public liability insurance with limits of liability not less than:
\$500,000.00 each person personal injury,
\$500,000.00 each occurrence personal injury, and
\$500,000.00 each occurrence property damage or insurance coverage specified in the permit or contract, whichever is greater.
7. Vendors are accountable to the department for equipment assigned to their location. The vendor is responsible for maintaining the equipment in a clean and sanitary condition.
8. The vendor shall not discriminate in the employment of persons on the grounds of race, color, sex, national origin, creed or religion, physical or mental impairment, age, marital status or political affiliation.
9. The vendor or the vendor's employees shall not subject customers to discrimination or deny them participation in, or the benefits of the vending facility on the grounds of race, color, sex, national origin, creed or religion, physical or mental impairment, age, marital status or political affiliation.
10. The department staff shall provide management services as defined in WAC 67-35-030 on a systematic basis. Consultation shall occur a least bi-monthly.
11. The department may upon thirty days notice terminate the license and/or terminate the agreement with the vendor for failure to operate the facility in accordance with the permit or contract or the vending facility rules and shall provide an opportunity for a full evidentiary hearing as provided for in WAC 67-35-420, except in those instances where aggravated emergency conditions require immediate termination of license and/or termination of agreement and

removal of the vendor due to gross neglect or misconduct, as provided for in WAC 67-35-430.

- 12. The vendor may terminate this agreement upon giving thirty days written notice to the department.
- 13. This agreement is automatically terminated when the permit or contract with the contracting agency is terminated.

I HEREBY CERTIFY THAT I FULLY UNDERSTAND THE ARTICLES AND TERMS SET FORTH IN THE ABOVE AGREEMENT AND HAVE RECEIVED ALL NECESSARY EXPLANATIONS OF THE PERMIT OR CONTRACT AND THE VENDING FACILITY PROGRAM RULES AND HAVE RECEIVED WRITTEN COPIES THEREOF.

Signed: Date:, 19..
(Vendor)

Name of vendor:
(please type)

Signed: Date:, 19..
(Department of Services for the Blind)

Name of staff:
Title:

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- (1) WAC 67-32-010 DESCRIPTION--PURPOSE.
- (2) WAC 67-32-020 PUBLIC INFORMATION--HOW TO APPLY.
- (3) WAC 67-32-030 TERMS DEFINED.
- (4) WAC 67-32-040 ELIGIBILITY.
- (5) WAC 67-32-045 LICENSEE AN INDIVIDUAL PERSON--NOT A CORPORATE ENTITY.
- (6) WAC 67-32-050 LICENSEE TRAINING.
- (7) WAC 67-32-055 LICENSEE--FORMER OR CURRENT OUT-OF-STATE.
- (8) WAC 67-32-060 SELECTING A LICENSEE OR VENDOR TO OPERATE VENDING FACILITY--NOTICE.
- (9) WAC 67-32-070 SELECTING A LICENSEE OR VENDOR TO OPERATE VENDING FACILITY--PROCEDURE.
- (10) WAC 67-32-075 SELECTION OF A LICENSEE OR VENDOR TO OPERATE A VENDING FACILITY DURING A LEAVE OF ABSENCE OF A VENDOR.
- (11) WAC 67-32-080 LICENSEE OR VENDOR EVALUATION FORM--EXPLANATION.
- (12) WAC 67-32-090 ASSIGNMENT TO A VENDING FACILITY--AGREEMENT.
- (13) WAC 67-32-100 POSTEMPLOYMENT SERVICES.
- (14) WAC 67-32-110 DISCRIMINATION PROHIBITED.
- (15) WAC 67-32-120 STATE COMMITTEE OF BLIND VENDORS--ELECTION--REPRESENTATION--MEETINGS.
- (16) WAC 67-32-130 BLIND VENDORS COMMITTEE--PURPOSE.
- (17) WAC 67-32-140 VENDING MACHINE INCOME DISPERSED BY COMMISSION.
- (18) WAC 67-32-150 FEDERAL VENDING MACHINE INCOME--USE AS DETERMINED.
- (19) WAC 67-32-160 BUSINESS ENTERPRISES REVOLVING FUND.
- (20) WAC 67-32-170 BUSINESS ENTERPRISES REVOLVING FUND--USES.
- (21) WAC 67-32-180 ACCESS TO PROGRAM AND FINANCIAL INFORMATION.
- (22) WAC 67-32-190 COMMISSION RESPONSIBILITY--DEVELOPMENT OF NEW VENDING FACILITY LOCATIONS.
- (23) WAC 67-32-200 COMMISSION RESPONSIBILITY--ARCHITECTURE AND CONSTRUCTION.
- (24) WAC 67-32-210 COMMISSION RESPONSIBILITY--INITIAL EQUIPMENT--INITIAL STOCK AND SUPPLIES.
- (25) WAC 67-32-220 TITLE TO INITIAL EQUIPMENT--RIGHT TO INITIAL STOCK AND CASH.
- (26) WAC 67-32-230 COMMISSION RESPONSIBILITY--MAINTAINED FACILITY.
- (27) WAC 67-32-240 COMMISSION RESPONSIBILITY--VENDOR-OWNED EQUIPMENT.
- (28) WAC 67-32-250 COMMISSION RESPONSIBILITY--ADVANCE TRAINING.
- (29) WAC 67-32-260 COMMISSION RESPONSIBILITY--OPENING FOR BUSINESS.
- (30) WAC 67-32-270 COMMISSION RESPONSIBILITY--CONSULTATION.
- (31) WAC 67-32-280 COMMISSION RESPONSIBILITY--INSPECTION--REQUIRED CONTACTS.
- (32) WAC 67-32-290 COMMISSION RESPONSIBILITY--CONTACT WITH PROPERTY MANAGEMENT.
- (33) WAC 67-32-300 COMMISSION RESPONSIBILITY--NEGOTIATION WITH VENDING MACHINE COMPANIES.
- (34) WAC 67-32-310 PUBLIC LIABILITY INSURANCE.
- (35) WAC 67-32-320 VENDOR RESPONSIBILITY--INDEPENDENT--NOT STATE EMPLOYEE.
- (36) WAC 67-32-330 VENDOR RESPONSIBILITY--APPLICABLE FEDERAL AND STATE LAWS, RULES AND REGULATIONS.
- (37) WAC 67-32-340 VENDOR RESPONSIBILITY--VENDING FACILITY MANAGEMENT--NONDISCRIMINATION.
- (38) WAC 67-32-350 VENDOR RESPONSIBILITY--MAINTAINING EQUIPMENT.
- (39) WAC 67-32-360 VENDOR RESPONSIBILITY--MISCELLANEOUS EQUIPMENT--INITIAL STOCK AND SUPPLIES--MINIMUM OPERATING CASH.
- (40) WAC 67-32-370 VENDOR RESPONSIBILITY--COOPERATE.

(41) WAC 67-32-380 VENDOR RESPONSIBILITY--REPORTS.
(42) WAC 67-32-390 VENDOR RESPONSIBILITY--ACCOUNTS PAYABLE.
(43) WAC 67-32-400 VENDOR RESPONSIBILITY--EMPLOYMENT OF STAFF.
(44) WAC 67-32-410 VENDOR RESPONSIBILITY--REBATES.
(45) WAC 67-32-415 LEAVE OF ABSENCE FOR PROLONGED ILLNESS OR
PHYSICAL INCAPACITY.
(46) WAC 67-32-420 TERMINATION OF LICENSE--TERMINATION OF
AGREEMENT FOR CAUSE ONLY.
(47) WAC 67-32-425 TERMINATION OF VENDOR'S AGREEMENT--NOT
AFFECTING LICENSURE.
(48) WAC 67-32-430 LICENSE SUSPENSION PRIOR TO EVIDENTIARY
HEARING.
(49) WAC 67-32-440 SUSPENSION OR TERMINATION OF LICENSE--OTHER
REASONS.
(50) WAC 67-32-450 TERMINATION OF LICENSE--DISUSE.
(51) WAC 67-32-460 RELICENSING.
(52) WAC 67-32-470 ADMINISTRATIVE REVIEW.
(53) WAC 67-32-480 ADMINISTRATIVE REVIEW--WHO--WHEN--WHERE.
(54) WAC 67-32-490 FULL EVIDENTIARY HEARING.
(55) WAC 67-32-500 FULL EVIDENTIARY HEARING--RIGHT TO
INFORMATION.
(56) WAC 67-32-510 FULL EVIDENTIARY HEARING--TRANSCRIPT.
(57) WAC 67-32-520 FULL EVIDENTIARY HEARING--DECISION IN
WRITING.
(58) WAC 67-32-525 HEARING OFFICER--CERTAIN PURPOSES.
(59) WAC 67-32-910 AGREEMENT.