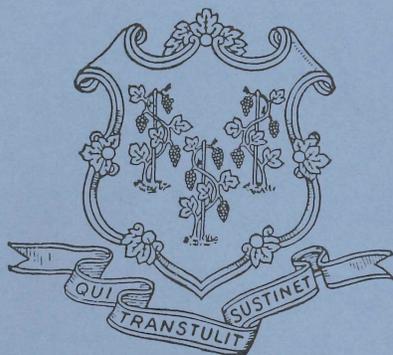


**BOARD OF EDUCATION  
AND SERVICES FOR  
THE BLIND  
VENDING MACHINE  
OPERATIONS**

Connecticut

General Assembly



LEGISLATIVE  
PROGRAM REVIEW  
AND  
INVESTIGATIONS  
COMMITTEE

**December 2002**

**CONNECTICUT GENERAL ASSEMBLY  
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 to evaluate the efficiency, effectiveness, and statutory compliance of selected state agencies and programs, recommending remedies where needed. In 1975, the General Assembly expanded the committee's function to include investigations, and during the 1977 session added responsibility for "sunset" (automatic program termination) performance reviews. The committee was given authority to raise and report bills in 1985.

The program review committee is composed of 12 members. The president pro tempore of the Senate, the Senate minority leader, the speaker of the house, and the House minority leader each appoint three members.

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LEGISLATIVE PROGRAM REVIEW  
& INVESTIGATIONS COMMITTEE

**Board of Education and Services for the Blind  
Vending Machine Operations**

DECEMBER 2002

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# Digest

## Board of Education and Services for the Blind

### Vending Machine Operations

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#### INTRODUCTION

- The intent of the study was to determine whether state policies and procedures related to Board of Education and Services for the Blind (BESB) vending machine operations provide adequate accountability and promote the most efficient and effective use of the revenues generated.

#### BACKGROUND

- Under C.G.S. Sec. 10-303, BESB has the right of first refusal to operate vending *facilities* and vending *machines* in all state and municipal buildings, if the agency in charge of the location decides such services are desired.
- On June 29, 1999, after a multi-step process, BESB signed a 10-year contract with the Coca-Cola Bottling Company of New England giving the company and its approved subcontractors exclusive rights to supply food and beverage vending machines in buildings where BESB operates.
- Revenue BESB receives from vending machines in non-federal buildings is deposited in a nonlapsing fund, called the 361 Account.
- Administratively, BESB is located within the Department of Social Services (DSS) for administrative purposes only.

#### INTENT OF THE PROGRAM

##### *FINDING*

*The legislative intent of C.G.S. Sec. 10-303, adopted in 1945 to provide employment opportunities for blind individuals, is no longer the primary focus of the BESB vending program.*

- Money is used for fringe benefits and training for blind facility operators, entrepreneurial and independent living training, and equipment for blind or visually impaired children and blind adults. BESB allows schools to retain all vending revenue from their locations for student activity funds.

#### RECOMMENDATIONS

**BESB's share of revenue from its vending machine program shall be used for the direct support of vending facility operators and the development of jobs for blind individuals.**

**As part of the budget process, BESB shall be required to report annually to the Appropriations Committee on the number and type of new jobs it created for blind individuals during the preceding year.**

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## **STATEWIDE CONTRACT PROCESS**

### ***FINDING***

*BESB used a publicly advertised process to select the contractor for its statewide food and beverage vending machine contract. However, BESB did not follow all of the procedures normally used by a state agency entering into a personal service agreement (PSA) because BESB believed contracts involving revenue to, rather than an expenditure by, the state did not require oversight by outside parties.*

### **RECOMMENDATION**

**All of BESB's future contracting efforts related to vending machines shall be executed through the Department of Administrative Services (DAS). BESB shall not ask DAS to seek bids or proposals for any new or renewal products or services dispensed through vending machines until BESB has obtained approval from the Office of Policy and Management (OPM) in accordance with that agency's process for personal service agreements over one year in length.**

## **CONTRACT MANAGEMENT**

### ***FINDING***

*BESB has failed to take the steps needed to ensure the statewide vending machine contract for food and beverages is operated uniformly and managed in accordance with all provisions of the contract.*

- Policy implementation and oversight of the statewide vending machine contract has been random and inconsistent.
- Concerns about BESB's management of the vending machine program mirror issues previously raised about BESB's capabilities in other program areas.

### **RECOMMENDATIONS**

**By March 1, 2003, BESB shall take the steps needed to:**

- **establish a comprehensive automated accounting system for all vending machine revenue (including from the Department of Transportation, PSA 99-541, other contracts, and federal buildings) capable of producing timely reports on sales and revenue by source that can be matched against the numbers contained in the comptroller's periodic revenue reports;**
  - **create a formal mechanism to obtain feedback from a rotating sample of machine locations regarding vendor compliance with contract provisions (e.g., machines being well-stocked and clean, prices correct, etc.);**
  - **conduct periodic, random, unannounced visits to locations with machines to verify vendor compliance with contract provisions (e.g., stickers re BESB program on machines);**
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- prepare written evaluations of the contractor’s overall performance at least annually and document any specific performance issues that require action on the part of the vendor or any subcontractor;
- meet with the contractor on a regular basis to discuss performance;
- prepare guidelines for BESB staff describing the steps to follow when contacting state agencies or local governments not covered by a specific vending machine contract (e.g., who to contact, how, and when); and
- formalize record keeping regarding the locations covered by all vending machine contracts, and at a minimum:
  - obtain written permits (i.e., signed letters of understanding) from the head of any state or local agency where a BESB vending machine is located;
  - issue written waivers for any location BESB chooses not to place machines within, unless the state statutes specifically exempt the location;
  - maintain an up-to-date inventory of vending machines by location and type of governmental agency (i.e., federal, state, town, or local school); and
  - maintain an up-to-date list of towns and state agencies not yet visited regarding their inclusion under the statewide contract.

If BESB fails to provide the program review committee with documented evidence by March 1, 2003, that BESB has taken the steps needed to implement all of the actions specified above, then BESB’s “administrative purposes only” status within DSS shall be converted to that of a subdivision under the active control of the commissioner.

## **CONTRACT PARTICIPATION AND REVENUE ALLOCATION**

### ***FINDING***

*The parties benefiting from the statewide BESB vending machine contract for food and beverages vary, depending on whether a vending facility exists on-site, BESB has made contact with the administrator for the locale, and/or BESB has voluntarily waived revenue.*

### **RECOMMENDATIONS**

Participation in the BESB vending machine program by town governments and local schools shall be voluntary, except to the extent that such voluntary participation is limited by the existing BESB vending contract.

Revenue from towns and schools that voluntarily participate in any BESB vending machine contract shall accrue to the BESB 361 Account.

In state and municipal buildings with a vending *facility* operated by a blind person, revenue from all vending machines shall continue to accrue to that person for as long as he/she operates the facility, and to any subsequent operator who is blind.

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**The Department of Transportation shall continue to make payments to BESB under the terms of its memorandum of understanding in order to compensate BESB for not operating on-site vending facilities at highway rest areas.**

**State higher education institutions and state regional vocational-technical schools shall be allowed to continue making independent vending machine arrangements for the benefit of their students.**

**In all other state locations, revenue from vending machines shall be deposited in BEBS's 361 Account for the support of vending facility operators and other employment-related programs for blind adults.**

## **REVENUE CAP**

### ***FINDING***

*BESB has been unable to document a clear spending plan for the revenue it receives from vending machine operations.*

### **RECOMMENDATION**

**BESB shall not be allowed to carry forward more than \$750,000 at the end of any given fiscal year. Any amount in excess of that level shall be deposited in the state's General Fund to be disbursed within the normal appropriation process.**

## **PROGRAM REGULATIONS**

### ***FINDING***

*Existing regulations used to guide operation of the statewide vending machine contract are out-of-date and not applicable to the existing situation.*

### **RECOMMENDATION**

**BESB shall update its vending facilities regulations and adopt additional provisions specific to the operation and management of independent vending machine contracts.**

## **PRODUCT SALES IN STATE BUILDINGS**

### ***FINDING***

*The state has no written guidelines regarding the types of products and services appropriate to offer for sale within state-owned or leased space.*

### **RECOMMENDATION**

**The Department of Public Works should establish guidelines regarding the types of products and services that can be offered for sale within state-owned and leased space and who is authorized to make such sales.**

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## BOARD OF EDUCATION AND SERVICES FOR THE BLIND VENDING MACHINE OPERATIONS

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# Introduction

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Under a 1945 law, the Board of Education and Services for the Blind (BESB) is authorized to operate vending machines in all state and local public buildings. Until the late 1990s, BESB contracted with dozens of vending machine contractors to service machines in a number of state buildings and a few local buildings. In 1999, BESB signed a statewide contract with a single vendor and began expanding the number of locations under its operation, especially in town and local school buildings.

Prior to the statewide contract, BESB rarely exerted its right of first refusal to operate in local government buildings. As a result, BESB's efforts to start enforcing the requirement came as a surprise to many people. Local government officials expressed concern about the loss of product choice as well as revenue for local activities. BESB eventually agreed to give up commission revenue from local schools, but it wanted the locations to continue operating under the state contract in order to create a large sales base for the contract.

In March 2002, the Legislative Program Review and Investigations Committee voted to study the BESB vending machine program. In particular, the committee wanted to determine whether state policies and procedures related to BESB vending machine operations provide adequate accountability and promote the most efficient and effective use of the revenues generated. The committee also sought to clarify whether the process BESB used to enter into the statewide food and beverage vending machine contract met state requirements.

The committee found BESB used a multi-stage, publicly advertised process to select the contractor for the statewide food and beverage vending machine contract. However, BESB did not follow all of the procedures normally used by a state agency to enter into such an agreement because BESB believed those requirements did not apply to contracts that produce revenue. In terms of contract oversight, the committee found BESB failed to take the steps needed to ensure the program operates uniformly and the vendor complies with all provisions of the agreement.

The committee found the parties benefiting from the program vary considerably. Factors affecting the results include the scope of vending services at a location, whether BESB has made contact with the administrators of the site, and if BESB has voluntarily waived revenue. BESB also has been slow to spend the revenue it receives, with the year-end balance in the nonlapsing account growing from \$228,000 at the start of FY 98 to \$2.7 million at the start of FY 03.

The key recommendations of the program review committee call for:

- reiterating the intent of the vending machine program is to provide funds for the creation and maintenance of employment opportunities for blind individuals;
- improving contract management through the adoption of operating procedures and increased oversight of vendor compliance with all contract provisions;
- limiting mandatory participation under BESB's vending contracts to state government locations;

- revising the allocation of program revenue to ensure money does not go unused for long periods of time; and
- requiring clarification of the products and services that can be offered for sale in state buildings.

The committee further recommended that if BESB cannot demonstrate it has taken specific steps to manage the statewide vending machine contract by March 1, 2003, then BESB shall become a subdivision of the Department of Social Services (DSS). This change would provide BESB with the management and oversight assistance it needs to achieve its program goals.

## **Methodology**

Program review staff conducted multiple interviews with BESB staff involved with the vending machine program and reviewed the agency's files related to the statewide vending machine contract process in detail. In September 2002, the committee sent a survey to all municipalities asking for information about the placement of vending machines in town facilities as well as communication between BESB and the towns. Separate information was requested for school and general government buildings. Responses were received from 105 towns for at least one of the building categories.

On November 14, 2002, the committee held a public hearing. Representatives of BESB, the statewide vending machine contractor, other vending machine operators who previously had contracts with BESB, and representatives of local government all testified. The committee adopted the findings and recommendations contained in this report on December 18, 2002.

## **Report Format**

The report contains two chapters. The first provides background information about BESB and its operation of vending machines in government buildings. The second presents the committee's findings and recommendations regarding future operation of the program.

Appendices A and C contain additional information about the history and structure of BESB. Appendix B presents a detailed chronology of the actions taken by BESB and other state entities during the multi-year process leading to the current statewide food and beverage vending machine contract. Appendix D is an excerpt from existing requirements state agencies are to use when entering into contracts, while Appendix E summarizes BESB efforts to monitor vendor compliance with specific provisions of the current statewide contract. Appendix F presents the results of the program review committee's survey of municipalities.

## **Agency Response**

It is the policy of the Legislative Program Review and Investigations Committee to provide agencies subject to a study with an opportunity to review and comment on the recommendations prior to publication of the final report. Appendix G contains the response from the Board of Education and Services for the Blind.

## Background

In 1945, the Connecticut General Assembly adopted legislation to parallel a 1936 federal law (the Randolph-Sheppard Act) giving preference to blind persons, whenever feasible, to operate vending “stands” on government property. In the 1950s, both the state and federal laws were amended to include the operation of vending “machines” within the scope of the program. (See Appendix A for a more detailed history of the federal and state laws.)

Currently, under C.G.S. Sec. 10-303, the Board of Education and Services for the Blind has the right of first refusal to operate vending *facilities* (i.e., stands) and vending *machines* in all state and municipal buildings, if the agency in charge of the location decides such services are desired. Under the law, a location that wants vending machines is to contact BESB and offer them the opportunity to operate the machines. If BESB fails to respond to the inquiry or declines the location, the facility is free to make its own arrangements for vending machine services.

Vending facilities operated by BESB must be run by blind individuals. Sites that only have vending machines can be managed by anyone BESB contracts with to perform the required services.

If a location with a vending facility also has on-site vending machines, all proceeds from the facility and the machines go to the blind operator of the facility. At other sites where BESB only operates vending machines, BESB has discretion to use the revenue from the machines for a variety of purposes, including fringe benefits for blind facility operators, training, and equipment. BESB also can allow agencies where machines are located to retain the revenue for student and client activity funds. Figure I-1 presents a flow chart summarizing the distribution of revenue from this program.

Food and beverages are the products most commonly dispensed through vending machines operated by BESB. A limited number of machines provide items such as phone cards, gumballs, and pens. A new undertaking being considered is automated teller machines (ATMs).

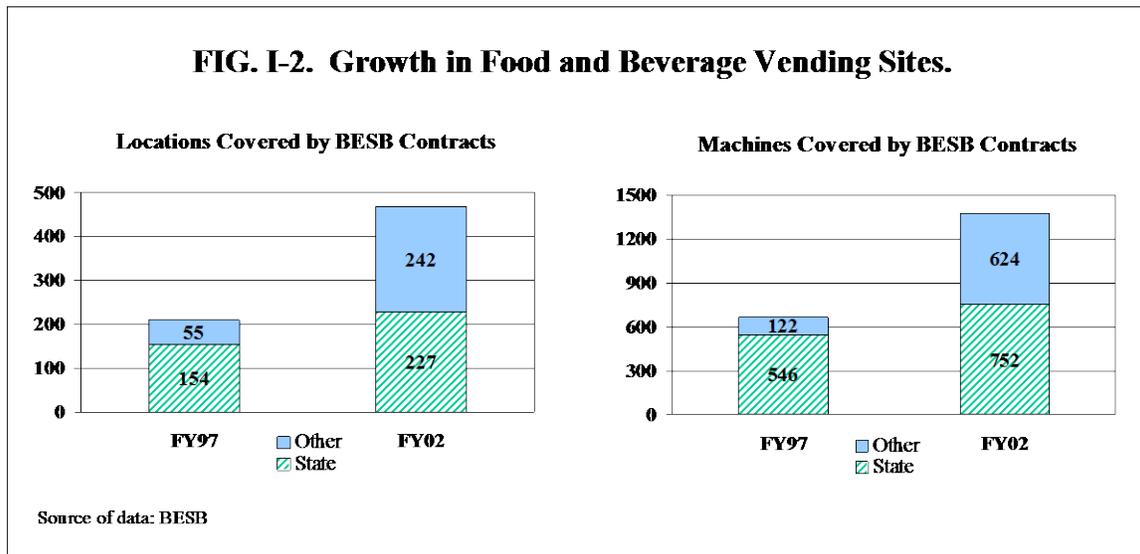
Separate contracts govern each type of product and specify the commission payment BESB will receive from the sale of each item. In FY 02, revenue from the food and beverage contract totaled \$1.5 million, while income from other products totaled \$44,000.

For many years, BESB ran its food and beverage vending machine program using a variety of vendors, each of whom served a small geographic area. BESB had a limited presence in school and town facilities because only a few municipalities realized they were required to contact BESB, and BESB did not actively pursue those locations. By 1996, BESB had contracts with 70 vendors, operating 650 food and beverage vending machines in 200 locations, three-quarters of which were state facilities.

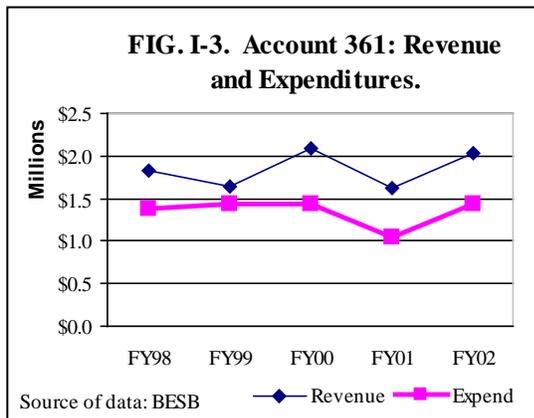
[insert Figure I-1]

In 1997, in an effort to increase revenue and improve oversight of contractor performance, BESB began looking at ways to expand the number of installed vending machines and reduce the number of vendors under contract. On June 29, 1999, after a multi-step process described in detail in Appendix B, BESB signed a 10-year contract with the Coca-Cola Bottling Company of New England.

Under that agreement, Coca-Cola and its approved subcontractors have exclusive rights to supply food and beverage vending machines in state and municipal buildings where BESB operates under C.G.S. Sec. 10-303. As of July 2002, the contract covered 1,376 vending machines in 469 locations; half of the machines were in state facilities. Figure I-2 shows the growth in machines and locations.

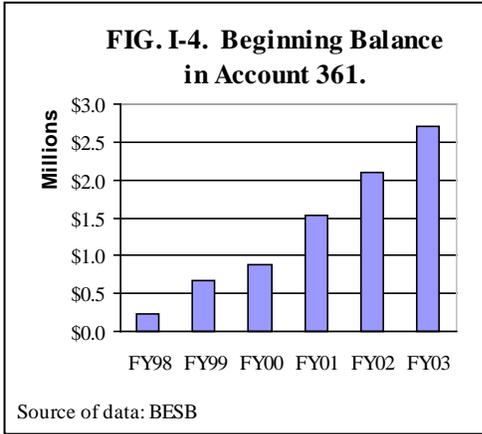


Revenue to BESB under the statewide food and beverage contract totaled \$1.5 million in FY 02, while local schools received an unspecified amount of money. BESB also receives vending machine revenue through the Department of Transportation (DOT) as a result of an agreement giving BESB the proceeds from machines at rest stops run by DOT in lieu of BESB sponsored blind individuals operating the facilities. FY 02 revenue from this source totaled \$383,000.



All of the revenue from BESB operated vending machines located in non-federal buildings is deposited in the nonlapsing fund, referred to as Account 361. Figure I-3 shows the revenue received and dollars expended from the account since state FY 98.

Figure I-4 indicates the value of the Account 361 at the start of each of the past six fiscal years. The amount has tripled since FY 00.



Revenue from machines on federal property is deposited in Fund 1143 to pay the fringe benefit expenses of vending facility operators. Approximately \$30,000 was deposited into the fund in both FY 01 and FY 02; earlier deposits were lower.

Appendix C contains information about the range of responsibilities assigned to the Board of Education and Services for the Blind. Per C.G.S. Sec. 10-293, BESB is located within the Department of Social Services for administrative purposes only. The mission of DSS is to serve those who need assistance maintaining or achieving their full potential for self-direction, self-reliance, and independent living.

## Findings and Recommendations

As part of the program review committee's examination of the vending machine program operated by the Board of Education and Services for the Blind, the committee reviewed:

- the intent of the program;
- policies and procedures for implementation of the statewide food and beverage vending machine contract;
- oversight and management activities related to contractor and subcontractor performance;
- program participation; and
- the distribution of revenue.

This chapter contains the committee's findings and recommendations for each of those areas.

### INTENT OF THE PROGRAM

Finding - *The legislative intent of C.G.S. Sec. 10-303, adopted in 1945 to provide employment opportunities for blind individuals, is no longer the primary focus of the BESB vending program.*

Background - The federal Randolph-Sheppard Act (20 U.S.C. 107) was enacted in 1936 to give preference to blind persons, whenever feasible, for operating vending stands on federally controlled property. According to the federal legislative history, the act was to provide blind persons with remunerative employment, enlarge their economic opportunities, and encourage their self-support through the operation of vending stands on federal property. In 1954, the federal act was amended to provide for the assignment of vending machine income to blind persons so they could protect their employment preference and prevent the machines from competing with their vendor operations.

Connecticut also has what is referred to as a "mini Randolph-Sheppard law." Enacted in 1945, Connecticut General Statute §10-303 extends a similar priority or preference to blind individuals who operate vending facilities in state and municipally owned or leased property. In 1959, the state law was amended to include vending machines. A review of the state legislative transcripts reveals references to the limited employment opportunities for the blind and an intent to parallel federal changes.

Initially, revenue from the vending machine program was used to pay for fringe benefits for vending facility operators. Over time, the money also came to be used for program operating costs, but no formal basis for this change is evident. This issue was raised by the state auditors in a December 1996 performance audit of BESB. Specifically, the auditors discussed the need for clarity in the law regarding which account money from the vending machine program should be deposited in and how it should be spent.

In 2001, as a result of concerns about the use of the revenue generated by the expanded statewide food and beverage vending machine contract, legislation was adopted to codify actual practice. Public Act 01-9 acknowledged the existence of a nonlapsing account funded by income from vending machines in state and local buildings. It authorized BESB to use the money to pay for fringe benefits and training for blind facility operators, entrepreneurial and independent living training, and equipment for blind or visually impaired children and blind adults. The law also specified BESB can allow agencies where the machines are located to retain vending machine revenue for student or client activity funds.

Issue – As originally conceived, vending services were to be a way to support the employment of blind individuals. As currently structured, revenue from the vending machine program can be used for a wide range of services and a variety of beneficiaries.

Cause - Modifications to C.G.S. Sec. 10-303 expanded the breadth of allowable uses for revenue from the BESB vending machine program without establishing any priorities.

Effect - According to data presented by BESB in spring 2002, the unemployment rate for blind adults in Connecticut is 70 percent. However, only 34 blind individuals operate vending facilities under C.G.S. Sec. 10-303.

A draft multi-year spending plan prepared by BESB in spring 2002, which has since been withdrawn, included funding to set up new businesses for blind individuals. However, one-third of the money was allocated for personnel to support blind enterprises and BESB shared expenses, while one-quarter was for items such as advocacy training for parents and educators, scholarships, and smoking prevention efforts.

Remedy - Statutorily restate the priority use of BESB's revenue from the vending machine program as the creation of jobs for people who are blind.

Recommendation - The program review committee recommends the following.

**BESB's share of revenue from its vending machine program shall be used for the direct support of vending facility operators and the development of jobs for blind individuals.**

**As part of the budget process, BESB shall be required to report annually to the Appropriations Committee on the number and type of new jobs it created for blind individuals during the preceding year.**

## STATEWIDE CONTRACT PROCESS

Finding - *BESB used a publicly advertised process to select the contractor for its statewide food and beverage vending machine contract. However, BESB did not follow all of the procedures normally used by a state agency entering into a personal service agreement (PSA) because BESB believed contracts involving revenue to, rather than an expenditure by, the state did not require oversight by outside parties.*

Background - The state of Connecticut does not have explicit guidelines for agencies to follow when entering into contractual arrangements involving receipt of revenue rather than an expenditure. However, many state agencies, including DOT and the University of Connecticut, use the same bidding and selection procedures in both situations. Upon request, the Department of Administrative Services (DAS), which handles procurement of many of the products used by the state, is available to provide purchasing assistance to individual agencies.

Guidelines issued by the Office of Policy and Management (OPM), which describe the standards and procedures to be followed when using a personal service agreement, require more scrutiny as the cost and length of a contract increases. Although the guidelines have been revised several times, since at least the early 1990s, a PSA for a term of more than one year (regardless of cost) requires pre-approval by OPM before development of a Request for Proposals (RFP).<sup>1</sup>

As detailed in Appendix B, BESB actually undertook two RFP efforts before executing the current statewide vending machine contract for food and beverages. In both cases, it issued RFPs and evaluated submitted proposals based on a set of criteria. However, as a result of a December 30, 1996, memorandum from the attorney general's office indicating: "Since these contracts do not involve the payment of money by BESB, they need not have formal Attorney General's Office approval.", BESB believed this meant no other approvals were required either. (BESB did receive some guidance in the letter regarding some standard clauses to add to the sample contract submitted for review.)

OPM became aware of BESB's activities in June 1998, before a contract was awarded under the first RFP. OPM asked BESB to suspend the process while efforts were made to clarify state agency compliance with C.G.S. Sec. 10-303.

In January 1999, BESB started the selection process again. Although BESB used a team of state employees from inside and outside of the agency to review and evaluate the proposals from the first RFP, the second time all of the evaluators were BESB employees. BESB and the vendor selected as the winning bidder were the only parties involved in negotiating and signing the contract (PSA 99-541) in June 1999.

Issue - A perception developed outside of BESB that the change from multiple vendors providing food and beverage vending machine services to a system with a single statewide vendor did not comply with state contracting procedures.

Cause - BESB did not involve anyone from outside the agency in the final process used to select the vendor for the current statewide contract. The people within the agency who were most actively involved with the evaluation and negotiation of the contract no longer work for BESB, but it appears few had experience with state contract procurement methods.

Effect - BESB's records related to the process of selecting a single, statewide contractor are disorganized. No one currently working at the agency can explain exactly how all of the steps in the process were carried out.

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<sup>1</sup> See Appendix D for the relevant excerpt from the OPM guidelines.

Remedy - Prohibit BESB from entering into or extending contracts for current or new products and services dispensed through vending machines without advice and assistance from other state entities with contract management expertise.

Recommendation - The program review committee recommends

**all of BESB's future contracting efforts related to vending machines shall be executed through the Department of Administrative Services. BESB shall not ask DAS to seek bids or proposals for any new or renewal products or services dispensed through vending machines until BESB has obtained approval from OPM in accordance with that agency's process for personal service agreements over one year in length.**

## CONTRACT MANAGEMENT

Finding - *BESB has failed to take the steps needed to ensure the statewide vending machine contract for food and beverages is operated uniformly and managed in accordance with all provisions of the contract.*

Background - In early 1999, BESB had regional contracts with 70 vendors, who operated 650 food and beverage vending machines in 200 locations. Under this system, BESB did not know how much revenue it was entitled to receive from each vendor. Commission payments were low, and sometimes the same amount (to the penny) for multiple months. In many cases, sales tally information was handwritten rather than electronically recorded.

Since July 1, 1999, BESB has had a single statewide contract with the Coca-Cola Bottling Company of New England, which works with 10 subcontractors to service 1,400 machines in nearly 500 locations. The contract is scheduled to run through June 2009, with the possibility of an additional five-year extension.

BESB hoped the change to a statewide contract would improve accountability and increase revenue. During the first year, commission revenue to BESB increased about 40 percent over what the agency received under the old, multi-vendor system. Since then revenue has doubled, increasing from \$700,000 in FY 00 to \$1.4 million in FY 02. However, during this period, the number of locations and machines also doubled, and the size of some product offerings expanded with a corresponding increase in price.

Issue - Implementation and oversight of the statewide vending machine contract for food and beverages has been inconsistent and incomplete.

Cause - BESB has no written policies or guidelines for the operation and oversight of the statewide food and beverage vending machine contract. A limited amount of BESB staff resources are available to support contract implementation, including outreach to new locations and compliance monitoring. Communication among direct and indirect contract participants has been limited in scope and contradictory in content.

Effect - Despite a reduction in the number of vendors it must deal with, BESB is unable to provide comprehensive information about the vending machine program, including compliance with contract provisions.

To date, BESB's efforts to verify all requirements contained in the statewide vending machine contract are being met have been uneven. In September 2002, BESB increased the staff resources assigned to the vending program by transferring contract oversight duties to the agency's director of finance. Although some steps were taken to enforce ongoing contract provisions, such as the requirement an independent certified public accountant annually audit the financial statement and schedules, only an audit for calendar year 2001 has been submitted and other opportunities for oversight have not been pursued. Appendix E contains a table summarizing the status of BESB's enforcement of existing contract provisions.

Quantitative information that would be helpful for evaluating the results of the program is difficult to obtain. BESB receives limited data about sales and revenue for the machines it allows state and local schools to keep. Data for the machines from which BESB receives revenue have not been available in a user-friendly format. The statewide contractor recently started providing required monthly sales and commission data electronically in an ACCESS 2000 format. Until then, BESB relied on printed reports, or it inputted data into its *Interact* system, which few employees know how to use and which is not structured to produce routine tracking reports.

There is considerable misunderstanding about BESB's jurisdiction over vending machines and the extent to which BESB intends to exert its authority over the placement of machines in government buildings throughout Connecticut. Municipalities in particular are confused about the effect of C.G.S. Sec. 10-303 on the operation of food and beverage vending machines in their town buildings and schools.

Although BESB sent several letters to towns over the years describing its statutory right of first refusal to operate vending machines, almost one-third of the 105 respondents to a program review committee survey of towns indicated they were unaware of BESB's authority prior to receiving the survey. (See Appendix F for a copy of the full survey.)

Complicating the issue, the letters BESB sent indicated towns should wait for further contact from BESB regarding the transfer of town machines to the BESB contract. However, in many cases, BESB still has not made contact with the towns. Indeed, more than half of the 63 respondents to the committee's survey who indicated "some" or "none" of their vending machines were operated by BESB said it was because BESB had not requested control.

Policy implementation related to the statewide vending program has been random and inconsistent. For example:

- When the statewide contract began in 1999, in at least one case, BESB agreed to split commission revenue from machines in a school with that school. Subsequently, BESB stopped taking any commission revenue from local schools, but the agency's intention to maintain this practice permanently has never been put in writing.

- Once BESB stopped taking any commissions from schools, it stopped receiving sales data for those locations, and BESB does not know which schools are covered by its contract.
- Despite letters to former vendors threatening to impose fees for removal and storage if they did not remove their machines by a specific date, BESB had no plan for when such penalties would be imposed.
- BESB has no time table or priority list for the order in which it will contact locations not currently covered by the statewide contract.
- Since the start of the statewide contract, BESB has said it would not seek to operate vending machines located within school cafeterias because those facilities are exempt from BESB control due to a lack of blind operators available to run the facilities. However, a December 2, 2002, letter from BESB to the program review committee indicated BESB will seek to bring such machines under the BESB contract when individual school cafeteria contracts come up for renewal.

Many of these examples mirror concerns previously expressed about BESB's management capabilities in other program areas. The state auditors' reports covering fiscal years 1996 and 1997 as well as 1998 and 1999 noted recurring problems regarding the lateness of inventory reports, accuracy of information in Generally Accepted Accounting Principles (GAAP) reports, and duplicate grant payments. The most recent audit completed this summer found BESB still had not pursued outstanding balances owed the state by several vendors replaced when the statewide food and beverage contract began in fiscal year 2000.

The program review committee itself, in its December 2000 report *Educational Services For Children Who Are Blind Or Visually Impaired*, identified similar management deficiencies in a program separate from the vending area. The committee found written goals and strategies for vision education were lacking, BESB had difficulty integrating and summarizing client service and expenditure information for planning and monitoring purposes, and personnel and expense data requested by the committee could not be compiled.

As a result of a March 2002 management audit of BESB conducted by OPM staff, the secretary of policy and management wrote to BESB expressing concern BESB staff were still not consistently following established procedures for the selection of vendors. The letter specifically asked BESB to seek OPM approval before entering into any contracts or personal service agreements, regardless of their value or length. However, it appears this summer BESB was exploring opportunities to increase the number of rest area locations offering phone cards without having discussed the expansion with OPM.

Remedy - Give BESB a finite deadline to take specific actions that demonstrate its ability to successfully manage the vending machine program. If BESB fails to perform, provide it with the management and oversight assistance it needs to achieve its program goals by changing its status from being within the Department of Social Services "for administrative purposes only" to being a subdivision of DSS under the active control of the commissioner.

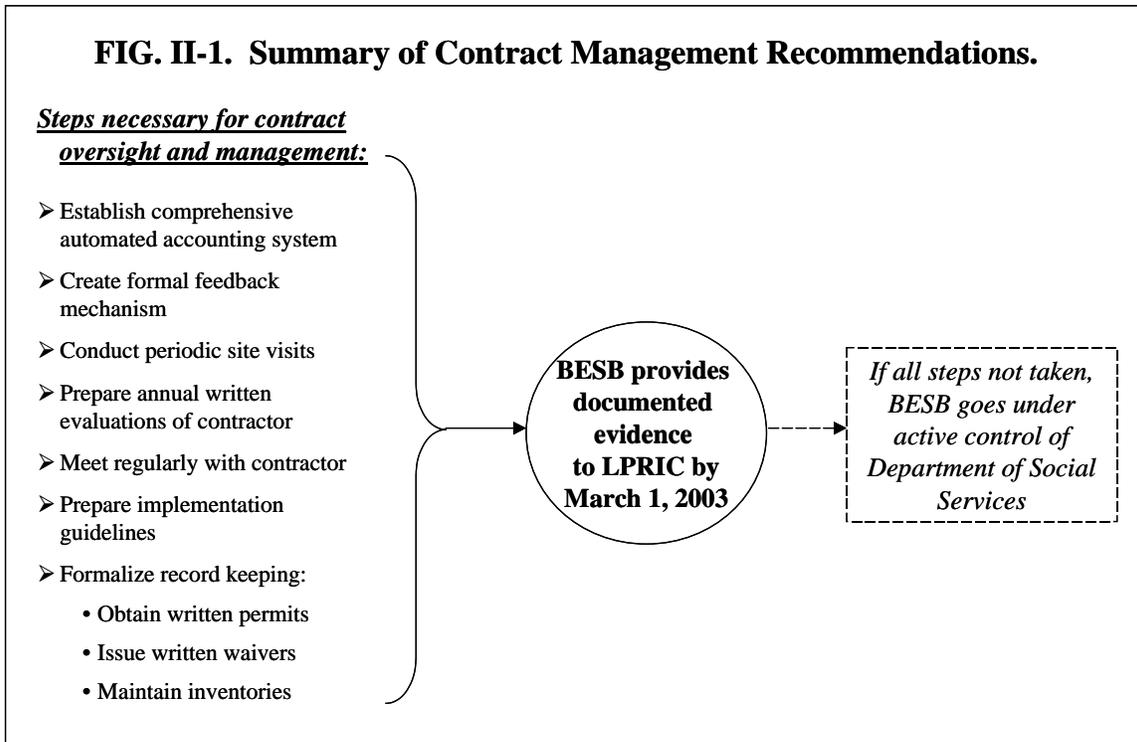
Recommendation - The program review committee recommends:

**By March 1, 2003, BESB shall take the steps needed to:**

- **establish a comprehensive automated accounting system for all vending machine revenue (including from DOT, PSA 99-541, other contracts, and federal buildings) capable of producing timely reports on sales and revenue by source that can be matched against the numbers contained in the comptroller's periodic revenue reports;**
- **create a formal mechanism to obtain feedback from a rotating sample of machine locations regarding vendor compliance with contract provisions (e.g., machines being well-stocked and clean, prices correct, etc.);**
- **conduct periodic, random, unannounced visits to locations with machines to verify vendor compliance with contract provisions (e.g., stickers re BESB program on machines);**
- **prepare written evaluations of the contractor's overall performance at least annually and document any specific performance issues that require action on the part of the vendor or any subcontractor;**
- **meet with the contractor on a regular basis to discuss performance;**
- **prepare guidelines for BESB staff describing the steps to follow when contacting state agencies or local governments not covered by a specific vending machine contract (e.g., who to contact, how, and when); and**
- **formalize record keeping regarding the locations covered by all vending machine contracts, and at a minimum:**
  - **obtain written permits (i.e., signed letters of understanding) from the head of any state or local agency where a BESB vending machine is located;**
  - **issue written waivers for any location BESB chooses not to place machines within, unless the state statutes specifically exempt the location;**
  - **maintain an up-to-date inventory of vending machines by location and type of governmental agency (i.e., federal, state, town, or local school); and**
  - **maintain an up-to-date list of towns and state agencies not yet visited regarding their inclusion under the statewide contract.**

**If BESB fails to provide the program review committee with documented evidence by March 1, 2003, that BESB has taken the steps needed to implement all of the actions specified above, then BESB's "administrative purposes only" status within the Department of Social Services shall be converted to that of a subdivision under the active control of the commissioner.**

Figure II-1 displays a graphic depiction of the recommendations.



## CONTRACT PARTICIPATION AND REVENUE ALLOCATION

**Finding** - *The parties benefiting from the statewide BESB vending machine contract for food and beverages vary, depending on whether a vending facility exists on-site, BESB has made contact with the administrator for the locale, and/or BESB has voluntarily waived revenue.*

**Background** - Since 1959, BESB has had statutory authority to operate vending machines in state and municipal buildings. In 1996, only 17 towns and 35 state agencies were covered by BESB vending machine contracts. In 1997, BESB sent letters reminding towns about the provisions of C.G.S. Sec. 10-303, but BESB never followed-up with non-complying entities.

In June 1998, OPM surveyed state agencies to determine compliance with the law and found at least 10 agencies were out of compliance at one or more locations. In many cases, the money being retained by the agencies was used to provide additional products or services for agency clients. Recently, BESB has been working with the Department of Mental Retardation and the Department of Mental Health and Addiction Services to develop Memorandums of Understanding (MOUs) regarding a sharing of vending machine commissions with those agencies.

In 1999, after signing the statewide vending machine contract, BESB began asserting its right to take over municipal locations. After sending an initial notice to towns indicating their existing machines would be replaced with ones operated by BESB, conversion activity has slowed. BESB plans to visit towns not currently under the program prior to the placement of BESB machines on site, but only about three dozen towns have been visited so far. In November 2002, BESB staff indicated it could take up to two years to visit all of the remaining towns it currently has authority to include under the vending machine contract for food and beverages.

When BESB exercises an option to operate a vending “facility,” the revenue from the stand as well as any vending machines within the same location accrues to the blind operator of the facility. Revenue from vending machines operated by or for BESB in other public buildings is deposited into state Account 361, except schools are being allowed to retain the proceeds from the machines in their buildings. Revenue from vending operations at state and local sites not covered by the BESB contract are distributed in accord with whatever arrangements the governing authority for the site makes with the vendor.

BESB does not operate cafeteria facilities in any local schools. In a number of cases, those locations also include coin operated vending machines. In the past, BESB considered such machines to be part of the cafeteria operation and exempted them from the statewide BESB contract. As a result, individual school systems continued making their own arrangements with vendors regarding the benefits the school would receive from the operation of those machines.

That decision created confusion in the towns. Though BESB did not seek to control machines in cafeterias, in some locations the statewide vendor has contacted towns directly about the possibility of servicing these machines. At least some towns thought these efforts were connected with expansion of the BESB contract. The situation could become even more complicated since BESB has now announced it plans to pursue operation of those vending machines when the cafeteria contracts come up for renewal.

A review of other states that grant preferences to blind vending facility operators indicates most states limit the scope of those Business Enterprise Programs to state buildings. In addition, several states also create exemptions related to type, size, or occupancy level of the facilities. The most common types of exemptions include higher education, state hospitals, residential institutions, state parks, or legislative buildings. A number of states also carve out vending machine funding for highway funds.

Issue - The policy regarding whether BESB or another entity will operate and/or receive revenue from vending machines in state and local government buildings is not clear.

Cause - State agency compliance with C.G.S. Sec. 10-303 has been mixed, and few towns have voluntarily complied with the requirement they give BESB right of first refusal to operate vending machines. While the preference for the blind to benefit from vending machines in state and local buildings was granted in 1950s, for many years BESB failed to systematically pursue its statutory jurisdiction. Questions have been raised about the fairness of singling out a single beneficiary for all revenue from vending machines in government buildings.

Effect - Towns and schools have mixed feelings regarding BESB’s authority over vending machines in their facilities. Those with control over buildings not under the BESB statewide contract for food and beverages assumed they had jurisdiction over the offerings and benefits provided by the vending machines in their locations. A few small towns benefit from the statewide contract because they receive service they could not obtain as an independent customer. Others believe they can manage better on their own by dealing directly with vendors. Many also do not believe local facilities should be required to be part of a state contract.

Remedy - Limit the mandatory component of the BESB vending machine program to non-educational state facilities. However, MOUs currently in effect between BESB and other state agencies regarding commission allocations would be honored.

The legal question of whether locations already covered by the existing statewide contract must remain there through 2009 and the extent to which BESB would be required to continue adding locations will have to be examined further.

Recommendation - The program review committee recommends the following.

**Participation in the BESB vending machine program by town governments and local schools shall be voluntary, except to the extent that such voluntary participation is limited by the existing BESB vending contract.**

**Revenue from towns and schools that voluntarily participate in any BESB vending machine contract shall accrue to the BESB 361 Account.**

**In state and municipal buildings with a vending *facility* operated by a blind person, revenue from all vending machines shall continue to accrue to that person for as long as he/she operates the facility, and to any subsequent operator who is blind.**

**The Department of Transportation shall continue to make payments to BESB under the terms of its memorandum of understanding in order to compensate BESB for not operating on-site vending facilities at highway rest areas.**

**State higher education institutions and state regional vocational-technical schools shall be allowed to continue making independent vending machine arrangements for the benefit of their students.**

**In all other state locations, revenue from vending machines shall be deposited in BEBS's 361 Account for the support of vending facility operators and other employment-related programs for blind adults.**

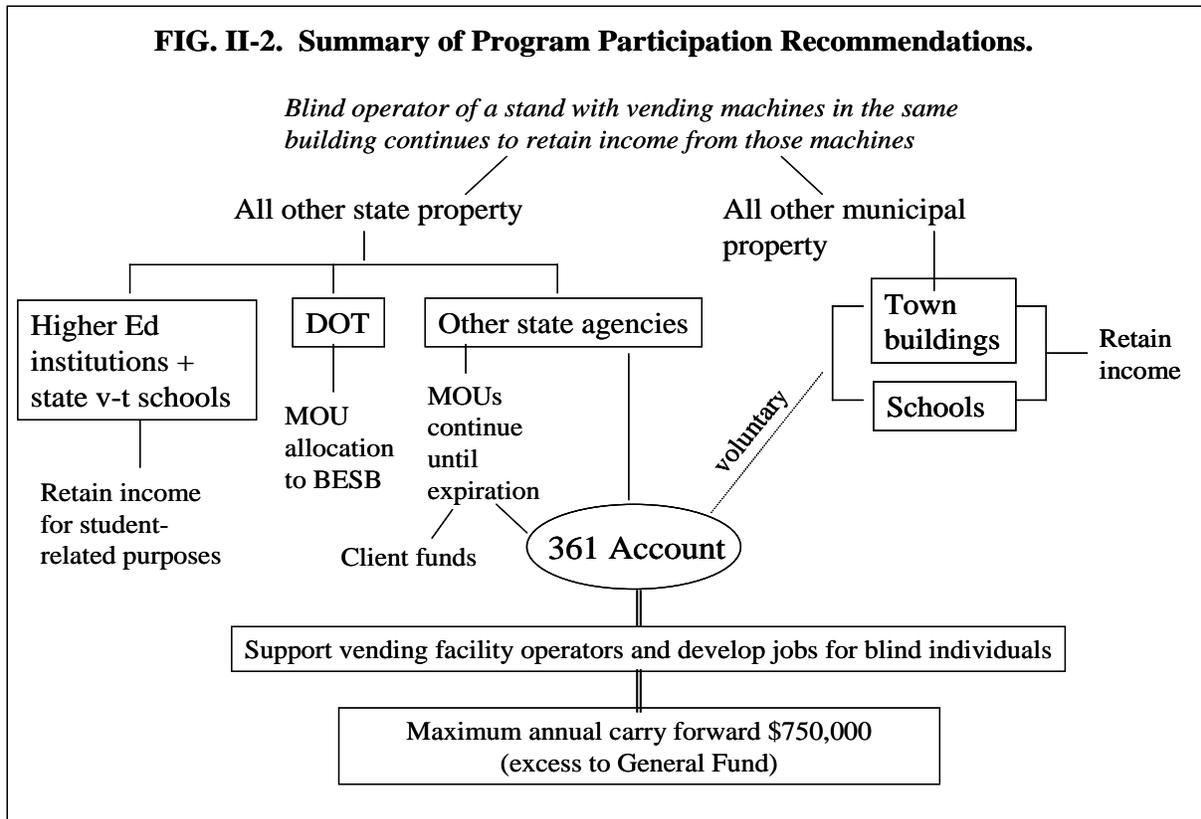
Figure II-2 displays a graphic depiction of the recommendations.

## **REVENUE CAP**

Finding - *BESB has been unable to document a clear spending plan for the revenue it receives from vending machine operations.*

Background - Money generated by BESB's statewide vending machine contract for food and beverages, as well as other BESB operated vending machines for other products, is deposited in state Account 361, a nonlapsing fund. FY 02 revenue totaled \$2 million.

**FIG. II-2. Summary of Program Participation Recommendations.**



In recent years, BESB has been making limited annual disbursements from the account in order to build up money to undertake projects for the renovation of existing vending facilities and the furnishing of new facilities. Despite repeated requests from the program review committee, BESB was unable to provide a detailed description of what the money was used for during the past five years. The balance in the account at the end of FY 02 was \$2.7 million.

BESB presented a spending plan to the legislature’s Education Committee in March 2002, but subsequently indicated it would be revising the plan. It hopes to have a new plan ready for the 2003 legislative session.

C.G.S. Sec. 10-304, which also involves potential revenue to BESB, specifies any money in excess of \$300,000 remaining in the account at the end of the fiscal year reverts to the General Fund. Similar provisions exist for funds used by other state agencies.

Issue - BESB annually spends only a portion of the money it earns from its vending machine operations.

Cause - BESB has no long-range plan for the use of the revenue from its vending machine programs. BESB says it needs money to complete major renovations of existing vending facilities, but it does not have a detailed budget or time table for these activities. The agency’s future plans are vague, with a limited focus on employment.

Effect - BESB's statewide vending machine program currently generates nearly \$2 million in annual revenue (from all sources). Program spending in FY 02 totaled \$1.4 million. Between the end of FY 00 and FY 02, the year-end balance in Account 361 rose 78 percent.

Remedy - Cap the amount of money BESB can carry forward in Account 361 at a level that will allow the agency the flexibility to undertake vending facility repairs, renovations, or start-ups at the beginning of the fiscal year.

Recommendation - The program review committee recommends:

**BESB shall not be allowed to carry forward more than \$750,000 at the end of any given fiscal year. Any amount in excess of that level shall be deposited in the state's General Fund to be disbursed within the normal appropriation process.**

## PROGRAM REGULATIONS

Finding - *Existing regulations used to guide operation of the statewide vending machine contract are out-of-date and not applicable to the existing situation.*

Background - The regulations governing operation of BESB's vending program were originally adopted in 1987. The most recent modification was in 1996.

These regulations were developed for purposes of operating a vending facilities program with on-site blind employees. References to vending machines are included within the context of that program. The regulations have not changed since BESB decided to sign a single, statewide vending machine contract for food and beverages.

Issue - BESB has no regulations to specifically deal with issues that arise from a vending machine program potentially covering all government locations in the state and serviced by an independent contractor.

Cause - The scope of the vending machine program has grown dramatically since the late 1990s. No clear policies or procedures were established in anticipation of this expansion.

Effect - Issues related to the statewide vending machine contract for food and beverages are resolved on a case by case basis, and few written policies exist.

Remedy - Require BESB to establish regulations for the operation of all of its vending machine contracts.

Recommendation - The program review committee recommends:

**BESB shall update its vending facilities regulations and adopt additional provisions specific to the operation and management of independent vending machine contracts.**

## PRODUCT SALES IN STATE BUILDINGS

Finding - *The state has no written guidelines regarding the types of products and services appropriate to offer for sale within state-owned or leased space.*

Background - BESB has been examining options for expansion of the products it offers in vending machines (e.g., ATMs, phone cards, etc.). While state law limits where some products can be sold and by whom (e.g., liquor), the state does not appear to provide any written guidance to state agencies about what items are appropriate to sell in government buildings.

Issue - There are no clear rules regarding the products and services that can and cannot be sold in state buildings.

Cause - Few state agencies have sought to sell nontraditional products or services within their buildings.

Effect - Individual state agencies may set different standards regarding the products or services sold in their buildings.

Remedy - Require the Department of Public Works, the agency with primary responsibility for state property management, to develop advisory guidelines regarding the products and services appropriate to sell in state buildings.

Recommendation - The program review committee recommends

**the Department of Public Works should establish guidelines regarding the types of products and services that can be offered for sale within state-owned and leased space and who is authorized to make such sales.**

## APPENDICES

## Legislative History

The concept of using vending revenues derived from government facilities is not new. The federal government first implemented the idea in the 1930s. Almost every state, including Connecticut, has followed suit since that time. Presented below is background information on the federal and Connecticut laws authorizing vending operations in government buildings.

### Federal Law

The federal Randolph-Sheppard Act (20 U.S.C. 107) was enacted in 1936 to give preference to blind persons, whenever feasible, for operating vending stands on federally controlled property. According to the federal legislative history, the act was to provide blind persons with remunerative employment, enlarge their economic opportunities, and encourage their self-support through the operation of vending stands on federal property.

In 1954, the act was amended to provide for the assignment of vending machine income to blind persons so that they could achieve and protect their preference if machines competed with blind-vendor operations.

The Rehabilitation Services Administration (RSA), a division of the U.S. Department of Education, is currently responsible for administering the blind-vendor program, known as the Business Enterprise Program (BEP). Under BEP, legally blind individuals who successfully complete a training program act as independent business owners and derive their income from the facility they operate. The program is entirely self-supporting in that operators receive their salaries from facility profits.

On the federal level, each federal agency may determine where and when blind vendor operations can be established on federal property they control. However, the day-to-day administration of BEP is done by an RSA designated state licensing agency. The Randolph-Sheppard act authorizes RSA to designate a state agency to issue licenses to blind persons for operating the vending stands. The act requires that the state licensing agency be the agency that administers vocational rehabilitation services to the blind. The state licensing agency:

- determines the types of stands to be established;
- provides licensed blind persons with necessary vending equipment and initial stock;
- issues program regulations including a fair hearing for any licensee dissatisfied with a program action; and
- reports to RSA as required.

In Connecticut, the RSA designated agency is the Board of Education and Services to the Blind (BESB).

## Connecticut Law

Connecticut also has what is referred to as a “mini Randolph-Sheppard law.” Enacted in 1945, C.G.S. Sec. 10-303 extends a similar priority or preference to vending facilities in state and municipally owned or leased property.

Public Act 220 of 1945 gave BESB the right to operate vending facilities. The act required “the authority in charge of any state, county or municipal building or property” to grant BESB a permit to operate “a stand for the vending of newspaper, periodicals, confections, tobacco products and such other articles as such authority approves when, in the opinion of such authority, such a stand is desirable in a such location.” The act grandfathered any person already operating a stand as of October 1, 1945, but it required the authority to grant a permit once that person had stopped. The provision was codified as Section 10-303 of the general statutes.

In 1959, two public acts (P.A. 264 and P.A. 615) made changes to section 10-303. The acts removed the reference to county facilities and expanded BESB’s authorized operations in state and municipal properties to include food service facilities and vending machines.

The statute was amended again in 1975 through Public Act 549. This act required the authority in charge of “any building or property owned, operated or leased by the state or any municipality therein” to grant BESB a permit to operate food service facilities, vending machines, and vending stands.

A review of the legislative transcripts reveals little to no discussion or debate regarding the statutory changes up to this time. Outside of the introductory remarks, the legislative comments on the statute reference the limited employment opportunities for the blind and a intent to parallel federal changes.

In 1980, a savings account was statutorily established for “non-state” vending machine income. Pursuant to federal law, the income was to be used to pay the fringe benefits of vending facility operators. The statute remained unmodified until 1997 when BESB was allowed to establish training facilities at vending locations.

The most recent statutory change occurred during the 2001 June Special Session. Public Act 01-09 directed income from state and local vending machine to be used for:

- the payment of fringe benefits, training, and support of vending facility operators; and
- entrepreneurial and independent living training and equipment to blind or visually impaired children and blind adults.

BESB must maintain the income derived from vending machines in state or locally owned or leased buildings in a separate, nonlapsing account. BESB is authorized to disburse state and local vending machine income to student or client activity funds as defined in state law.

## Regulations

Vending facilities in public buildings are governed by Connecticut regulations Sections 10-303-1 to 18. The regulations define “vending facility” as automatic vending machines, cafeterias, snack bars, cart service, shelters, and counters. The regulations state licenses to operate vending facilities may be issued by BESB. Licensees must be blind U.S. citizens certified by BESB’s Industries Division as qualified to operate a vending facility.

Stand-alone vending machines located in state or local facilities without a blind operator are subject to Connecticut regulations Section 10-303-18.

Pursuant to the regulations, BESB’s executive director or his/her designee may request a permit from the authority in charge of any state property authorizing BESB to establish and maintain a vending facility or vending machines on the property. If the authority desires to establish a vending facility or install a vending machine on state property, it must provide written notice to BESB’s executive director.

The executive director or designee will check the location of the proposed vending facility for its potential value as a vending facility to be operated by a blind vendor. Within 30 days of its assessment, BESB will either request the authority to issue a permit or send written notice to the authority of BESB’s decision not to request a permit.

If BESB does not respond within 30 days or decides not to request a permit, the authority may independently contract for vending facilities. However, BESB must be notified before the authority may extend or renew the contract.

If the authority issues a permit to BESB, a written agreement is prepared between the authority and BESB. The agreement sets out the terms and conditions including:

- the exact location of the vending facility;
- the type of facility to be operated;
- the types of articles to be sold and services to be provided; and
- the location, type, and number of vending machines.

The permit is issued for an indefinite period of time subject to noncompliance with the agreed upon terms or, if applicable, the expiration or termination of the authority’s lease. The authority is not charged nor responsible for the installation, maintenance, repair, replacement, servicing, and removal of any vending facility equipment. The agreement must stipulate what items the authority, BESB, and the vendor determine are suitable for the particular location.

# Appendix B

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## Chronology of Statewide Food and Beverage Vending Machine Contract

Since 1959, the Board of Education and Services for the Blind (BESB) has been authorized under C.G.S. Sec. 10-303 to operate vending machines in state and municipal buildings to raise revenue for programs to assist the blind.<sup>1</sup> Under the law, if any such location wants vending machines, they must contact BESB and offer them the opportunity to operate the machines. If BESB fails to respond to the inquiry or declines the location, then the facility is free to make its own arrangements for vending machine services.

For many years, BESB ran the program using a variety of vendors, each of whom served a small geographic area. BESB had only a limited presence in school and town facilities as a result of only few towns realizing they were required to contact BESB, and BESB not aggressively pursuing locations.

By 1996, BESB had contracts with 70 vendors, operating 650 vending machines in 200 locations. Three-quarters of the machines were in state facilities. Only 17 municipalities had BESB machines.

In 1997, in an effort to increase revenue and improve oversight of contractor performance, BESB began to look at ways to increase the number of installed vending machines and reduce the number of vendors under contract. In 1998, BESB took the first formal steps toward making a change when it issued Request for Proposals (RFP) 9798-27, offering vendors the option of bidding to serve the entire state or one or more of five, large regions. As a result of issues raised during the RFP review process, including concerns about BESB's jurisdiction over a number of state agency locations, the contract process was suspended.

In 1999, BESB issued Request for Qualifications (RFQ) 9899-22 to determine which vendors would be eligible to bid on RFP 9899-23 for a single, statewide vending machine contract. Four vendors were offered the opportunity to submit proposals; three did so. As a result of that process, on June 29, 1999, BESB signed a 10-year contract with Coca-Cola Bottling Company of New England. Under the agreement, Coca-Cola and its approved subcontractors have exclusive rights to supply food and beverage vending machines in state and municipal buildings where BESB operates such machines under C.G.S. Sec. 10-303.

As of June 2002, the BESB contract covered 1,376 vending machines in 469 locations. Only half were in state locations. Fifty-three municipalities had at least one machine in a town or school building.

Table B-1 summarizes the scope of each RFP/RFQ document. Table B-2 lists the companies that submitted responses to each RFP/RFQ. A detailed list of key dates leading up to and throughout the bidding process is presented immediately after the tables.

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<sup>1</sup> If a location contains a vending stand operated by a blind person, the revenue from all vending machines in the building also accrues to that person rather than BESB.

<b>TABLE B-1. Summary of Vending Machine RFPs and RFQ Issued by BESB</b>		
<i>Reference No.</i>	<i>Purpose</i>	<i>Time Frame</i>
RFP 9798-27	install, operate, and maintain vending equipment in 169 towns divided into five regions (14 to 43 towns each); option of bidding on one, multiple, or all regions for 10-year contract (with renewal for 5 more years if both parties agree)	Issued: 1/30/98 Bids due: 4/3/98 Review bids: 4/9/98 - 6/5/98 Withdrawn: 6/19/98
RFQ 9899-22	identify vendors to enter into business partnership "to develop and expand BESB's statewide full line vending machine business, in addition to acquiring all of BESB's current vending machine business throughout the State of Connecticut," -- vendors determined to meet qualifications would receive RFP	Issued: 1/7/99 Bids due: 3/5/99 Review bids: mid-March 1999 Qualified bidders notified: 3/23/99
RFP 9899-23	partner to operate and maintain state authorized vending machine business within Connecticut for five-year contract (renewable for additional five-year periods) -- BESB will negotiate terms of personal service agreement (PSA) with selected partner	Issued: 3/23/99 Bids due: 4/9/99 Review bids: mid-April to mid-May 1999 Sign PSA: 6/26/99

<b>TABLE B-2. Companies That Responded to Vending Machine RFP/RFQs Issued by BESB</b>			
<i>VENDOR</i>	<i>RFP 9798-27</i>	<i>RFQ 9899-22</i>	<i>RFP 9899-23</i>
Ace Automatic Enterprises		X	
All Seasons Services, Inc.	X	X*	primary subcontractor on Coca-Cola Bottling Co. proposal
Automated Services	X	X	
Berkshire Foods	X		
Cameo Vending	X	X	
Classic Foods	X	X*	X
Coca-Cola Bottling Co. of New England	X	X*	X
Coca-Cola Co. Southeastern New England	X	X	
Compass Group (Canteen)	X	X*	X [Canteen]
J.C. Vending Company	X		listed as participant in Coca-Cola Bottling Co. proposal
John Hayes & Sons	X		
* deemed qualified to receive RFP 9899-23			
Source of data: documents at the offices of the Board of Education and Services for the Blind			

## KEY DATES AND ACTIVITIES

**March 31, 1977** - letter from attorney general responding to Department of Transportation (DOT) as to whether C.G.S. Sec. 10-303 prohibits leasing food or vending services on specified highways and at Bradley Airport to parties other than those represented by BESB says:

*... Section 10-303 does not prohibit the leasing of any building or property owned, operated or leased by the State or any municipality therein for the purpose of operating a food services facility, a vending machine or a vending stand to parties other than those represented by the Board of Education and Services for the Blind. However, the opportunity for operating such a facility must be given in the first instance to the Board of Education and Services for the Blind. Only after renouncement of this statutory right may such a facility be offered to other qualified vendors.*

**1985, 1988, 1990, and 1992** - series of agreements between DOT and BESB to transfer revenue from turnpike and parkway vending machine operations to BESB

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**July 23, 1987** - effective date of state regulations governing vending facilities in public buildings -- Sec. 10-303-2 (a) includes the following definitions:

*(33) "Vending Facility" means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters ... which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages and other articles or services dispensed automatically or manually and prepared on or off the premises ... and including the vending or exchange of chances for any lottery authorized by state law and conducted by an agency of the state.*

*(35) "Vending Machine" means a coin or currency operated machine which dispenses articles or services, except those machines operated by the United States postal service for the sale of postage stamps or other postal products and services located on postal service property.*

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**December 30, 1996** - memorandum from assistant attorney general notes sample vending machine RFP and resultant contract have been reviewed and "Since these contracts do not involve the payment of money by BESB, they need not have formal Attorney General's Office approval." -- did make a few suggestions regarding contract language

**January 3, 1997** - memorandum from assistant attorneys general responding to whether BESB can operate food service facility in state or municipal building using commercial subcontractor says C.G.S. Sec. 10-303 draws a distinction between food service facilities and

vending machines, “explicitly contemplates vending machines operating for the benefit of BESB programs will not always be state owned,” and notes:

*Thus the Federal statutes allow for commercial entities to operate vending machines only under contract, with the income accruing to benefit the blind. They do not contemplate commercial entities operating food services facilities with the income inuring to the benefit of the blind. In that Connecticut’s statutory scheme is modeled on the Federal Act and designed to ‘dovetail’ with its provisions ... BESB is similarly not authorized to ‘contract out’ anything other than vending machine sites to commercial entities.*

Regarding “activity funds” created under C.G.S. Sec. 4-52, the memo says

*... where Section 10-303 applies, it controls over Sections 4-52 et seq. In other words, if BESB chooses not to exercise its option of offering food services or vending machines at a particular state educational, welfare or medical institution, then the site may be used for a canteen or vending machines to benefit an activity fund set up under Section 4-52.*

**late 1996 through 1997** - BESB sends written reminders to municipalities about provisions of C.G.S. Sec. 10-303 (and says BESB staff will contact them to discuss their needs) and writes to all state agency heads asking for list of state owned, operated, or leased property they operate from -- receive responses from a number of towns and state agencies

**August 6, 1997** - BESB seeks opinion from attorney general on “legal options ... [BESB] has to force the municipalities and state and federal agencies into compliance with 10-303” -- no written response received

**Spring 1997 - January 1998** - BESB staff work on proposal for statewide vending machine contract -- develop draft language, attempt to compile comprehensive list of vending machine locations statewide, and seek input from vendors on feasibility of concept (including representatives of Coca-Cola and Pepsi)

**January 15, 1998** - BESB issues press release announcing intent to restructure way it contracts for vending machine services by consolidating hundreds of individual locations into five regions or single statewide approach

**January 20, 1998** - memorandum from assistant attorneys general indicating “proposed statewide vending RFP” submitted to them by BESB “looks good” -- a few language additions are suggested

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**January 30, 1998** - BESB issues **RFP 9798-27** soliciting proposals to install, operate, and maintain vending equipment in 169 towns divided into five regions (covering from 14 to 43 towns); vendors had option of bidding on one, multiple, or all regions for 10-year contract (with renewal for additional five years if agreed upon by both parties)

**February 12, 1998** - notice announcing availability of RFP 9798-27 printed in the *Hartford Courant*

**February 18, 1998** - Addendum No. 1 to RFP 9798-27 issued -- added requirement bidders submit one original and 10 copies of their proposal

**February 18, 1998** - 42 individuals (representing approximately 30 different companies) sign attendance sheet at mandatory Pre-Proposal Conference for vendors wishing to respond to RFP 9798-27 -- written summary of meeting indicates BESB intends to exercise cancellation clause in all existing vending contracts as it phases in new five-year or 10-year contract that will result from the RFP

**February 24, 1998** - memo from BESB purchasing manager to "All Prospective Proposers" provides copy of questions and answers from pre-proposal conference -- memo also indicates that in response to requests at pre-proposal conference and written inquiries for more time to prepare bid proposals, deadline for bid submissions postponed to April 3, 1998

**February 25, 1998** - memo from BESB purchasing manager to "All prospective Proposers" clarifying deadline for bid submissions is April 3, 1998

**March 6, 1998** - original deadline to submit proposals for RFP 9798-27

**March 1998** - five-person evaluation team selected to assist BESB purchasing manager reviews responses to RFP 9798-27 -- two BESB employees and one person each from Office of the State Comptroller, Division of Special Revenue, and Department of Correction serve on team

**April 3, 1998** - revised deadline to submit proposals for RFP 9798-27; 10 responses received -- see Table B-2 for names of the companies

**April 9, 1998** - memo from BESB purchasing manager to executive director of BESB describing process for "evaluation of the regional/statewide vending services proposal," which is expected to take 30 to 60 days: establish weights for evaluation factors; team members independently review proposals; develop questions for clarification and obtain answers; team members independently score all proposal submissions; team meets to discuss evaluations and adjust scores as necessary; review final scores and make award recommendation

**April 13 - 15, 1998** - at request of BESB purchasing manager, evaluation team members submit recommendations for weights to assign to individual evaluation criteria

**April 16, 1998** - memo from BESB purchasing manager to "Members of the Evaluation Team for Vending Services" proposing value to be given to each evaluation factor specified in the RFP: completeness of proposal response [5 points], management capability [15 points], financial capability [20 points]; installation, operation, and development [25 points]; commissions [30 points]; and use of Connecticut small businesses [5 points]

**April 20, 1998** - evaluation team members receive copies of all proposals to individually review and rate

**April 29, 1998** - deadline for evaluation team members to submit their initial evaluations of proposals to BESB purchasing manager

**May 12, 1998** - evaluation team meets with BESB purchasing manager to discuss RFP responses, including any additional information needed from proposers

**May 13, 1998** - BESB obtains TRW Business Profile for each of three companies ranked highest by evaluation team (i.e., All Seasons Services, Inc., Classic Foods Dining & Automated Services, and Coca-Cola Bottling Company of New England)

**May 13, 1998** - BESB sends letter to Classic Foods asking them to comment on letter from Coca-Cola Bottling Company of New England regarding product availability, provide information about investment and product sources, and submit copy of their most recent audited financial statement

**May 27, 1998** - BESB sends letters to All Seasons and Coca-Cola Bottling Company of New England asking each to provide copy of their most recent audited financial statement

**May 27, 1998** - memo from BESB purchasing manager to evaluation team providing tabulation of scores of top three companies and average of individual ratings, noting "... it is clear that Classic Foods has the best overall score" and indicating he will draft letter of recommendation from team to BESB executive director unless anyone objects before the end of the following day

**June 1, 1998** - internal BESB memo indicating review of credit and financial reports for top three vendors "did not provide any significant detrimental information that warrants removing any of them from consideration"

**June 3, 1998** - memo from BESB purchasing manager to evaluation team members informing them financial review did not provide any "significant detrimental information that would warrant changing or adjusting any of the Evaluation Team's previous scoring of these vendors" and attaching draft letter recommending Classic Foods be given contract for all regions of the state -- team members are to call immediately if they do not concur with recommendation

**June 5, 1998** - memo from BESB purchasing manager to BESB executive director conveying June 3rd letter of recommendation (and noting one team member not available until following week to sign letter, but he concurred with recommendation)

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**May/June 1998** - several state agencies contact Office of Policy and Management (OPM) to express concerns about how BESB statewide contract will affect existing vending machine arrangements at individual agency locations

**June 18, 1998** - memo from deputy secretary of OPM, to "Heads of State Agencies" seeking information about the type and location of vending machines, annual gross sales and net revenue, commission rates, and uses of income from the machines

**June 19, 1998** - letter sent from executive director of BESB to each of the companies that submitted proposals in response to RFP 9798-27 indicating:

*Unfortunately, circumstances have developed precluding me from awarding the contract at this time. The Office of Policy and Management has indicated that the award will have a budgetary impact on other State agencies. This impact requires an analysis, the result of which may change the scope of the vending sites to be serviced.*

**June 26, 1998** - deadline for state agencies to submit vending machine data to OPM

**August 18, 1998** - OPM staff complete summary of statewide survey of vending operations and find 10 agencies "at least partially non-compliant" -- staff recommends BESB:

- not be allowed to continue with statewide vending contract unless they agree to provide agencies with revenue comparable to current arrangements;
- not be allowed to expand vending presence in public schools;
- recognize legitimate interests of agencies serving students/patients/clients in setting vending prices below market;
- delay pursuit of increased DOT revenue until current agreement ends in 2003;
- be encouraged to come to agreement with units of higher education to increase BESB's presence in vending operations without significantly altering current revenue arrangements; and
- go through upcoming governor's budget process, if multi-year, capital program needed to upgrade vending operations.

**September 4, 1998** - letter from deputy secretary of OPM to executive director of BESB says results of survey of vending operations in state facilities "raise a number of questions that need to be addressed before the signing of any statewide contract," directs BESB to begin process with agencies out of compliance with C.G.S. Sec. 10-303 that will culminate in the signing of a memorandum of understanding between each agency and BESB, and asks BESB to "suspend the process for the awarding of a statewide vending contract" -- BESB can continue pursuing interim arrangements for existing machines currently under their control

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**December 15, 1998** - letter from executive director of BESB to commissioner of administrative services indicating BESB is

*now positioned to change the way we do business. Drawing from the experience gained from the previous RFP issued, and clarification from OPM concerning revenue sharing with other state agencies, we are ready to seek a business partner in this endeavor. We have drafted a Request for Qualifications (RFQ) that will help identify those entities that have the marketing, management, financial strength, and more importantly, the experience in the operations management of a large vending business, to partner with BESB. Our goal is to generate revenue which will ensure operating funds for the program while maintaining a high quality of product for our vending machine customers.*

*Once the RFQ process is complete, selected vendors meeting the requirements will be requested to submit a Request for Proposal (RFP) that establishes the framework for negotiation toward a partnership agreement with BESB.*

*Because of our extensive experience with this type of procurement, BEP staff will be overseeing the entire process to ensure continuity through the RFP process.*

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**January 7, 1999** - BESB issues **RFQ 9899-22** to identify vendors to enter into business partnership with BESB “to develop and expand BESB’s statewide full line vending machine business, in addition to acquiring all of BESB’s current vending machine business throughout the State of Connecticut,” which included approximately 650 machines in over 200 locations; vendors determined to meet qualifications would be asked to submit RFP -- copies of RFQ distributed to at least 70 vendors

**January 8, 1999** - Addendum No. 1 to RFQ 9899-22 issued -- extends deadline for submissions of qualifications by one week

**January 25, 1999** - Addendum No. 2 to RFQ 9899-22 issued -- revises information vendors required to submit regarding their existing vending machine business (e.g., the original RFQ asked for specific location and sales data, while the addendum only requires summary data)

**February 26, 1999** - original RFQ deadline

**March 5, 1999** - revised deadline to submit proposals for RFQ 9899-22; eight submissions received -- see Table B-2 for names of the companies

**mid-March 1999** - the four members of the RFQ evaluation team (all of whom work for BESB) receive copies of all proposals to individually review and rate using evaluation criteria specified in RFQ: vendor qualifications (number, type, and size, quality, scope of vending machine locations), financial condition/strength, past experience with large scale accounts, and organizational structure and credentials of key personnel; meet to discuss proposals; and recommend four vendors deemed qualified to receive vending machine RFP

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**March 23, 1999** - BESB issues **RFP 9899-23** requesting proposals for “a partner to operate and maintain State authorized vending machine business within the State of Connecticut” and encourages vendors to partner with Connecticut small businesses experienced in vending for five-year contract (renewable for additional five-year periods); BESB will negotiate the terms and conditions of the Personal Service Agreement (PSA) that will formalize the contract with the selected partner

BESB sends copy of RFP 9899-23 to four pre-qualified vendors: *All Seasons Services, Inc.* (Southbridge, MA), *Canteen Corporation* (Middletown, CT), *Classic Foods* (Greenfield, MA), and *Coca-Cola Bottling Company of New England* (East Hartford, CT)

**April 9, 1999** - deadline to submit proposals for RFP 9899-23; three bids received -- see Table B-2 for names of the companies

**mid-April 1999** - same four BESB employees who evaluated RFQ responses serve as evaluation team for RFP -- each proposal reviewed (initially by single evaluator, then by all team members) using five criteria specified in the RFP (though not the weights): commission percentages (payable to BESB) [38 points]; other financial incentives [5 points]; installation, operation and development of new business (as well as continued operation of current locations) [40 points]; financial condition [15 points]; and vendor's intention to partner with Connecticut small businesses [2 points]

**April 15, 1999** - letter sent to Coca-Cola requesting additional information

**April 18, 1999** - Coca-Cola submits response to April 15 letter

**April 22, 1999** - separate e-mails from members of evaluation team ranking the proposals are sent to chair of team

**April 26, 1999** - memo from fiscal administrative manager to executive director of BESB indicating evaluation team found only two vendors submitted proposals that "exceed the minimum requirement for consideration as a vending partner for BESB's BEP [Business Enterprise Program]," and they recommend BESB "commence negotiations with Coca-Cola Bottling Company of New England for a partnership agreement"

**April 27, 1999** - letter from executive director of BESB to Coca-Cola Bottling Company of New England, offering that firm "the opportunity to form a partnership with us [BESB] for statewide vending services to our customers"

**late April - early May 1999** - representatives of BESB and Coca-Cola Bottling Company of New England negotiate details of contract -- in consideration of lump sum payments of \$100,000 at startup plus \$100,000 in year six and other training and marketing considerations, initial contract length to be set at 10 years (i.e., original five-year period plus first five-year renewal) at startup

**May 13, 1999** - letter from executive director of BESB to Coca-Cola Bottling Company of New England accepting their proposal "to be our vending service partner" and noting the use of All Seasons as a subcontractor won them "the highest marks"

**June 26, 1999** - BESB signs **PSA 99-541** with Coca-Cola covering 10-year period from July 1, 1999 through June 30, 2009; no other governmental authorities sign document

**September 20, 1999** - letter from Coca-Cola Bottling Company of New England to executive director of BESB indicating the company "as contractor for vending services" with BESB "will successfully administer the contract across all state territories for the duration of the agreement"-- also notes that although company does not control franchised beverage rights for all of Connecticut, its relationships with bottling operations in other areas will allow the company to administer the BESB contract statewide using authorized subcontractors

## Agency Responsibilities

Established in 1893, the Board of Education and Services to the Blind (BESB) is the principal agency providing services for the blind and visually impaired in Connecticut. The agency is located within the Department of Social Services (DSS) for administrative purposes only. BESB is headed by an executive director appointed by the governor. The governor also appoints the seven board members, two of whom must be blind. The DSS commissioner serves as an ex officio board member.

Over the years, the board has become essentially an advisory body; its only statutory duties are to maintain a registry of blind persons and make an annual activity report to the governor. Most powers, such as the authority to determine eligibility for agency services, the amount and type of services provided, approve financial assistance payments, and contract for services have been transferred to the executive director.

BESB's primary responsibility is to assist individuals of all ages who are legally blind and to children who are visually impaired. The agency assists them in acquiring the skills and support services necessary to be independent.

Pursuant to state law, BESB is statutorily responsible to provide the following services within available resources:

- comprehensive low vision services;
- specialized educational services;
- life skills training;
- case management; and
- vocational services to individuals of all ages who are legally blind and to children who are visually impaired.

Among BESB's statutory responsibilities are:

- provide instruction to all state residents, regardless of age, who, because of blindness or impaired vision, require a special education program (C.G.S. § 10-295);
- make grants to the Connecticut Radio Information Service, Inc. for the purchase of receivers and related costs (C.G.S. § 10-297a);
- aid in securing employment for capable blind or partially blind persons in industrial and mercantile establishments and in other positions that offer financial returns -- the director may spend up to \$960 in any fiscal year to assist these individuals (C.G.S. § 10-297);

- develop and maintain workshops for training and employing blind persons in trades and occupations suited to their abilities, for the purpose of producing suitable products and services by the state (C.G.S. § 10-298a);
- aid blind persons in securing employment, in developing home industries, and in marketing their products and services (C.G.S. § 10-298a);
- maintain a savings account and accrue interest for non-state vending machine income, which is to be used by the board to pay for fringe benefits of the vending operators (C.G.S. § 10-303);
- receive federal funds made available to the state under which vocational rehabilitation is provided for person with impaired visual acuity (C.G.S. § 10-307);
- cooperate with the federal government in carrying out the purpose of federal law pertaining to vocational rehabilitation (C.G.S. § 10-308); and
- establish a Braille Literacy Advisory Council to review Braille literacy and assess the availability of services for visually impaired children of school age<sup>1</sup> (C.G.S. § 10-294b).

In addition, federal and state law provides BESB preference in certain business opportunities. Under the Business Enterprise Program, BESB has the right of first refusal to operate cafeterias, shops, and other small businesses that are located on public property, such as courthouses, office buildings, and parks. BESB trains and helps support blind individuals establish and operate these businesses.

BESB's FY 02 budget was \$25 million. Approximately one-fifth of this money came from private contributions, 12 percent came from the federal government, and the remainder came from the General Fund.

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<sup>1</sup> The council includes the education commissioner, the BESB director, a representative of the National Federation of the Blind of Connecticut, two teachers of visually impaired children, a parent of a visually impaired school-aged child, a public school administrator, a visually impaired public high school student, and a representative of the Connecticut Council of the Blind.

# PERSONAL SERVICE AGREEMENTS

Standards and Procedures

for

Requests for Personal Service Agreements

Personal Service Agreement Reporting Requirements

Requests for Proposals

STATE OF CONNECTICUT

OFFICE OF POLICY AND MANAGEMENT

*Marc S. Ryan, Secretary*

*Pam Law, Deputy Secretary*

STRATEGIC MANAGEMENT DIVISION

*John A. Mengacci, Under Secretary*

Effective September 1, 2002

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## Statutory Basis

Connecticut General Statutes Sections 4-212 through 4-219 inclusive require that the Office of Policy and Management establish standards to be followed by executive branch agencies entering into personal service agreements. The attached document contains these standards.

Each executive branch agency has established written procedures for implementing the standards established by OPM. On and after July 1, 1994, no executive branch agency may execute a personal service agreement unless the Secretary of OPM has approved the procedures established by the agency.

## Glossary of Terms

The following terms used in this document are defined as follows:

**Executed Personal Service Agreement** – a personal service agreement that has been signed by all parties, including the Office of the Attorney General, if applicable. No contractor should be working without an executed personal service agreement.

**OPM** - Office of Policy and Management

**Personal service agreement** - a written agreement defining the services or end product to be delivered by a personal service contractor to a state agency

**Personal service contractor** - any person, firm or corporation not employed by the state, who is hired by a state agency for a fee to provide services to the agency

The term personal service contractor does *not* include:

- a person, firm or corporation providing "contractual services," as defined in CGS Sec. 4a-50\*
- a consultant, as defined in CGS Sec. 4b-55\*
- a consultant, as defined in CGS Sec. 13b-20b\*
- an agency of the federal government, of the state or of a political subdivision of the state

**PSA** – personal service agreement

**Secretary** - the Secretary of the Office of Policy and Management

**State agency** - a department, board, council, commission, institution or other agency of the executive department of state government

\* Information on these statutory references can be found in the Appendix.

### ***Overview of the Review / Approval Process***

Note: Personal Service Agreements with a cost of \$20,000 or less and a term of 1 year or less do not require review and approval by OPM.

The following situations require that request forms be submitted to OPM for review / approval before an agency can enter into a personal service agreement. Please remember that no contractor should be working without an executed personal service agreement.

Non-competitive agreements with a cost greater than \$20,000 require the submittal of the Request for Waiver from Competitive Solicitation form.

Agreements with a term of more than one year require the submittal of the Request for Personal Service Agreement form. If these agreements are non-competitive, the Request for Waiver from Competitive Solicitation form is also required.

Competitive agreements with a cost greater than \$50,000 require the submittal of the Request for Personal Service Agreement form.

Amendments to existing agreements require the submittal of the Request for Amendment form when:

- The cost of the original agreement was greater than \$50,000
- The amendment has a cost of one hundred percent or more of the cost of the original agreement
- The amendment increases the cost of the agreement to more than \$50,000
- The amendment extends the term of the agreement beyond one year
- The amendment is the second or subsequent amendment, regardless of cost

***Requests must be complete when submitted. Incomplete requests will not be processed until all necessary information has been provided by the agency submitting the request.***

The Office of Policy and Management shall approve or disapprove an agency's request within fifteen (15) business days after receipt of the request ***and all necessary supporting information/documentation***. If action is not taken within the fifteen (15) day period, the request is deemed to be approved.

All request forms are to be submitted to:

The Office of Policy and Management  
Strategic Management Division – MS#54MGT  
450 Capitol Avenue  
Hartford, CT 06106

**All Personal Service Agreements**  
**Cost: Over \$50,000, OR Term: Over One Year**

No state agency may execute a personal service agreement having a cost of more than \$50,000 or a term of more than one year without the approval of the Secretary of OPM. Approval must be sought before the development of a Request for Proposal.

A state agency may apply for approval from the Secretary by submitting the following information to OPM on the Request for Personal Service Agreement form:

- whether the agency intends to secure the services through a competitive process (if non-competitive, a Request for Waiver from Competitive Selection must also be submitted)
- a description of the services to be purchased
- a description of the need for such services
- an estimate of the cost of the services
- the proposed term (start/end dates) of the agreement
- whether the services are to be on going
- whether the agency has contracted out for such services during the preceding two years and, if so,
  - the name of the contractor
  - term of the agreement with such contractor
  - the amount paid to the contractor
  - whether the services were obtained through a competitive process
- whether any other state agency has the resources to provide the services
- whether it is possible to purchase the services on a cooperative basis with other state agencies

As stated on page 2 of this document, Connecticut General Statutes Section 4a-7a(b) states that a personal service agreement between a state agency and an individual shall have a term of not more than one year. Note: Any such personal service agreement may be extended or renewed, for an unlimited term, provided the appropriate collective bargaining representative, the Commissioner of Administrative Services and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees are notified of such extension and renewal.

**APPENDIX E. Compliance Re: Statewide Vending Machine Contract for Food and Beverages (PSA 99-541).**

<i>Contract Section</i>	<i>Page</i>	<i>Requirement/Option</i>	<i>Status</i>
Vend Prices + Price Changes	3	Unit vend prices enumerated in Attachment C to remain fixed for at least one year; requests to increase/decrease unit vend prices must be submitted in writing to BESB for approval	Same prices are still in effect
Products Vended	3	BESB is to receive detailed product listings of all items to be vended, updated annually, and subject to BESB's review and approval	BESB has not received new lists since the start of the contract, although at least one new product is being offered by the contractor.
Financial Reports and Audits	4	After close of fiscal year, contractor to provide (1) detailed sales report by month within 30 days and (2) copy of financial statements and schedules audited by independent CPA within 75 days; BESB can audit financial records that apply to agreement any time during term of agreement during normal business hours	(1) BESB receives sales reports within 15 days for locations it receives the commissions from -- BESB does not get information on schools (2) BESB received audit for FY 02 in December 2002; audits for prior years were never prepared  BESB has never audited any of the contractor's financial records -- occasionally asks for meter slips and spot checks those against printed reports
Refund Policy	4	Contractor must establish/maintain prompt refund policy, which shall become part of agreement, and provide copy to BESB for approval	BESB considers refund description contained in the contract to be the policy
Insurance + Continuous Coverage	4	Contractor must maintain workers comp and general liability insurance $\geq$ \$1 million and furnish certificate of insurance on anniversary date	BESB receives a copy of the certificate every year
Subcontracting + Personnel	5+8	Contractor cannot assign, transfer, or sublet any location without written permission from BESB All subcontractors must be approved by BESB prior to beginning work	BESB maintains list of approved subcontractors -- it does not require specific information about a company before approving them, relying instead on contractor to recommend reliable subcontractors; BESB has not prepared written evaluations of the contractor or any subcontractors -- BESB may send written inquiry to contractor if a problem occurs
Location Termination	5	BESB can terminate current or future locations with 30+ days notice, if blind operator will manage and operate machines	No locations have been terminated under this provision

**APPENDIX E. Compliance Re: Statewide Vending Machine Contract for Food and Beverages (PSA 99-541).**

<i>Contract Section</i>	<i>Page</i>	<i>Requirement/Option</i>	<i>Status</i>
Non-Compliance	5-6	If BESB advises in writing that contractor is not conducting operations in accord with agreement, contractor will have 30 days to rectify conditions - - if not rectified at that time, BESB may terminate PSA on 30 days written notice to contractor	BESB has never given the contractor written notification of conditions not in accord with the contract
Changes to the Machine Population	6	Contractor to notify BESB of the addition/loss of existing or new machines or locations	BESB makes initial contact for new location -- contractor submits paperwork with identification numbers for any machines installed/removed but details regarding schools are not reported to BESB
Performance Bond	6	Contractor must provide initial performance surety of \$630,000 (based on estimated annual commission value), which shall be reviewed and updated annually by BESB and contractor	BESB does not know the current status of the performance surety
General + Machines + Sales Counters	7	Contractor must provide new or like new vending machines in locations agreeable to customer, BESB, and contractor -- machines shall be ADA accessible and equipped with financial and product audit functions	Contractor has provided new machines -- BESB checks on machines when it is in the field and estimates a majority of existing locations it receives commissions from have been visited; occasionally BESB staff are present at installation of a machine
Identification Sticker/BESB	7	Each machine is to bear a prominent sticker (the design of which was approved by BESB) indicating portion of profit provides opportunities for blind people in Connecticut	Several attempts have been made to produce a sticker design acceptable to BESB, but none has been approved yet -- current emphasis is on a new design for the machine fronts
Maintenance + Repairs	7	All vending machines are to be kept clean, sanitary, and in good operating condition	BESB indicated it has received no complaints from any location about cleanliness -- staff check on this when they are in the field
Service Refills	8	Machines are to be refilled as needed, with the frequency based on sales demand and determined jointly by BESB and the contractor	BESB relies on contractor and subcontractors to determine frequency that machines are refilled -- if BESB receives complaint about empty machine, it contacts the contractor

**APPENDIX E. Compliance Re: Statewide Vending Machine Contract for Food and Beverages (PSA 99-541).**

<i>Contract Section</i>	<i>Page</i>	<i>Requirement/Option</i>	<i>Status</i>
Commission Payments	8	Contractor must electronically remit commission payments monthly by 15 <sup>th</sup> day of the following month	At start of contract, payments made by check -- since 2001, most payments made electronically; payments have been late multiple months -- December 2001 consulting report commissioned by BESB found payments an average of 10 days late throughout the first 11 months of 2000
Delinquent Commissions + Late Penalties and Interest	8	Late commission payments are cause for terminating the contract, and are subject to a 10% penalty plus 1½% interest per month	BESB has never assessed the contractor a penalty or charged interest for late payments
Sales Reports	8	Detailed sales reports must be submitted by the 15 <sup>th</sup> day of the month, preferably in an electronic format acceptable to BESB	BESB said reports received on time, but consultant review of first 11 months of 2000 indicated reports were an average of 10 days late -- contractor began submitting electronic reports in October 2002
Key Account Manager	9	An account manager is to be assigned to serve as liaison to BESB -- during start-up period, person will be assigned to BESB's central office	Same individual has been account manager since start of contract -- he was on-site when contract began
Attachment B item 4	10	Vending training to be conducted for BEP blind operators and staff at least twice a year	Contractor provides occasional technical assistance upon request
Attachment B item 5	10	BEP to obtain vending machines free or at cost for life of contract and receive repair assistance for BESB owned equipment	BESB receives machines at no charge
Attachment B item 6	10	Vending machines are to be installed on schedule or site will receive day's worth of beverages free	All installations have been on schedule
Attachment B item 7	10	Contractor to provide marketing support and analysis for BEP blind managed or operated locations	Representatives of contractor visit sites operated by blind vendors and make suggestions regarding product placement and operations
Attachment B item 8	10	Contractor to provide standard, discounted rate for manager/operator run locations	Contractor provides discounted rate

BESB = Board of Education and Services for the Blind BEP = Business Enterprise Program PSA = personal service agreement

Sources of data: PSA 99-541, program review committee staff interviews with BESB staff, and DiSanto Bertoline & Company, P.C., *Board of Education and Services to the Blind Consulting Report*, December 31, 2000.

## APPENDIX F

### Legislative Program Review and Investigations Committee Survey of Municipalities Regarding Vending Machines in Town Facilities

Name of your town: [Responses received from **105** towns -- some covered all government buildings, some only covered schools, and some only covered non-schools; see attached addendum for the names of the towns that submitted responses]

Person completing survey \_\_\_\_\_ Title \_\_\_\_\_ Tel. \_\_\_/\_\_\_\_

1. In the table below, please indicate the number of facilities your town owns or leases and the number of facilities that currently have one or more vending machines located within. Please separate public school buildings from all other town buildings.

	<b>Total</b> number of buildings owned or leased by your town	Number of buildings with at least one beverage, food, or combined beverage/food vending machine
Schools	combined total of 380	combined total of 263
All other	combined total of 761	combined total of 196

2. Prior to receiving this survey, was your town aware that the state Board of Education and Services for the Blind (BESB) has statutory authority to operate vending machines in buildings owned or leased by municipalities in Connecticut? (N=105) yes **63%** no **30%** no answer **5%**

3. How many of the vending machines in your town's facilities are operated by BESB? (N=104)

- (a) **14%** all  
(b) **11%** some  
(c) **50%** none  
(d) **26%** do not have any vending machines in town facilities [*Please go to Question 8.*]

- 3a. If you answered "some" or "none," why isn't BESB operating all of your town's vending machines? (N=60)

- (a) **55%** BESB has not requested control  
(b) **8%** BESB refused locations  
(c) **2%** BESB will take over when contract with current vendor(s) expires  
(d) **35%** other (please specify) \_\_\_\_\_

**In 1999, BESB signed a contract with the Coca-Cola Bottling Company of New England that currently governs BESB vending machines installed in state and municipal facilities. Please answer the questions below, based on your town's initial experiences with that contract. [*If your town does not have any vending machines under the control of BESB, please go to Question 7.*]**

- 4a. Who contacted your town first to say BESB was installing vending machines in your town buildings? (N=23)

- (a) **74%** representative of BESB  
(b) **13%** representative of Coca-Cola  
(c) \_\_\_ vendor who held vending machine contract(s) at that time  
(d) **9%** other (please specify \_\_\_\_\_)  
(e) **4%** no one contacted the town

4b. What format was used to inform your town BESB was installing vending machines in your town buildings? (N=19)

- (a) 42% received a letter
- (b) 32% received a telephone call
- (c) 26% in-person visit
- (d) \_\_\_\_\_ other (please specify) \_\_\_\_\_

4c. How far in advance did your town find out BESB was installing vending machines in your town buildings? (N=22)

- (a) 5% found out the day the new machines were installed
- (b) 32% 1-14 days in advance
- (c) 27% 15-30 days in advance
- (d) 36% more than one month in advance

5. Thinking about town locations where vending machines are currently under the control of BESB, please answer each of the questions below. (N=25, unless otherwise noted)

- (a) The town determines the number of machines placed in each building. yes 72% no 28%
- (b) The town selects the location of the machines within each building. yes 96% no 4%
- (c) The town is consulted regarding the products offered in the machines. yes 44% no 56%
- (d) The town has input into the prices charged for products in the machines. yes 28% no 72%
- (e) The town controls the hours machines in each school are in operation. yes 67% no 33% (N=15)
- (f) Mechanical problems with the machines are fixed promptly. yes 62% no 38% (N=21)
- (g) The machines are kept well-stocked with the listed products. yes 64% no 36%

6. How has the amount of annual revenue the schools in your town receive from vending machines changed since BESB took control of the machines? (N=10)

60% no change (b) 10% increased (c) 30% decreased

7. In calendar year 2001, how much revenue did your town receive from all vending machines? (Please answer separately for school buildings and for other town buildings.)

*PUBLIC SCHOOLS* (N=34)

- (a) 26% did not receive any revenue
- (b) 15% \$1 - \$999
- (c) 21% \$1,000 - \$5,000
- (d) 12% \$5,001 - \$10,000
- (e) 26% more than \$10,000

*OTHER TOWN BUILDINGS* (N=51)

- (a) 73% did not receive any revenue
- (b) 20% \$1 - \$999
- (c) 8% \$1,000 - \$5,000
- (d) \_\_\_\_\_ \$5,001 - \$10,000
- (e) \_\_\_\_\_ more than \$10,000

8. If you would like to provide additional comments, please use the space below or attach a separate page.

## ADDENDUM

List of towns that responded to the LPR&IC Survey Regarding Vending Machines in Town Facilities

Andover	Durham	Mansfield	Somers
Ansonia	East Granby	Marlborough	South Windsor
Ashford	East Haddam	Meriden	Sprague
Avon	East Hartford	Montville	Stafford
Beacon Falls	East Windsor	Morris	Stonington
Berlin	Enfield	New Britain	Suffield
Bethany	Essex	New Canaan	Tolland
Bethel	Franklin	New Haven	Torrington
Bethlehem	Glastonbury	New London	Union
Bolton	Goshen	Newington	Voluntown
Bozrah	Granby	Newtown	Warren
Branford	Greenwich	Norfolk	Washington
Bridgeport	Griswold	North Branford	Watertown
Brookfield	Groton	North Haven	West Hartford
Brooklyn	Haddam	Old Lyme	Westbrook
Burlington	Hamden	Old Saybrook	Westport
Canaan	Hampton	Orange	Wethersfield
Canterbury	Hartford	Pomfret	Willington
Canton	Hebron	Putnam	Wilton
Cheshire	Kent	Rocky Hill	Winchester
Chester	Killingworth	Roxbury	Windham
Colchester	Ledyard	Salisbury	Windsor
Colebrook	Lisbon	Scotland	Wolcott
Cornwall	Litchfield	Seymour	Woodbridge
Coventry	Lyme	Sharon	Woodbury
Deep River	Manchester	Sherman	

Regional School District 9  
(Burlington and Harwinton)

Regional School District 10  
(Easton and Redding)

## APPENDIX G

### Agency Response



STATE OF CONNECTICUT

**Board of EDUCATION AND SERVICES FOR THE BLIND**

Via Hand Delivery

January 23, 2003

Program Review and Investigations Committee  
State Capitol  
Hartford, Connecticut 06106

**Re: Services to Connecticut's Blind Entrepreneurs, Workers, and Residents**

Dear Senator Freedman, Representative Malone, and Committee Members:

We are pleased to forward our response to the recent Committee Report on the B E S B program that relates to blind employment, services, and vending machines. As you will see, we endorse most of the opinions in the Report. We agree that the great preponderance of vending machine money should be used to develop entrepreneurial and employment-related opportunities and skills for blind residents. In fact, our current practices are aligned with this goal. We expect to present a workplan, detailing how we will implement recommendations received from many sources, including the Committee. And while a "cap on funds" might be a useful inducement, any such "cap" will be counterproductive if it does not exclude working capital and obligated funds on a phased-in basis. In other areas:

- We have established direct access to Coke's data-base through a new system that has been "on line" since November, 2002.
- As of October, 2002, all business functions for the program are the responsibility of our business office.
- In early January, 2002, we requested OPM approval for two Personal Service Agreements, one for a "comprehensive review" of vending machine operations, and one for ongoing audits of vending machines.
- We have established and will continue establishing formal policies and procedures to address issues identified by the Committee and others (fiscal accountability, contract management, procurement, legal and ethical compliance, quality assurance, placement of machines, revenue disbursal, consistency in operations, etc.).

We will be contacting you directly for further discussions, to ensure that this process leads to improved services for the 13,000 blind residents of Connecticut. We particularly wish to correct the misconception that services to blind residents will improve if B E S B is disbanded. (The attached letter from the federal Rehabilitation Services Administration is informative.) In closing, let us thank you and Committee staff for your interest and assistance.

*Richard G. Fairbanks*

Richard G. Fairbanks  
Board of Directors, Chair

*Donna Balaski*

Donna Balaski  
Executive Director

*"Creating Independence and Integration"*

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184 Windsor Avenue, Windsor, Connecticut 06095



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES  
REHABILITATION SERVICES ADMINISTRATION

Dr. Donna Balaski, Executive Director  
State of Connecticut Board of Education  
and Services for the Blind  
184 Windsor Avenue  
Windsor, Connecticut 06095

JAN 23 2003

Dear Dr. Balaski:

This is in response to your recent inquiry to the Rehabilitation Services Administration (RSA) of the U.S. Department of Education concerning the potential reorganization of the State of Connecticut Board of Education and Services for the Blind, the designated state agency responsible for administering vocational rehabilitation services for individuals who are blind in the state of Connecticut.

You have indicated that plans may be considered for a potential consolidation of the agency for the blind with the general agency providing vocational rehabilitation services to persons with other disabilities, the Connecticut Department of Social Services, Bureau of Rehabilitation Services. In this regard, you have also raised the question as to how this planned reorganization, if implemented, will affect the quality of services to blind consumers in the state and what impact it will have on current Federal law regarding the provision of vocational rehabilitation services.

Under the Rehabilitation Act of 1973, as amended, Section 101 (a)(2) (State Plan Requirements), states have the option of designating a separate agency or unit for the administration of vocational rehabilitation services for blind persons in that state. In the submission of the state plan for vocational rehabilitation services, the state is required to identify the particular organizational structure it has designated for the administration of its state plan in accordance with all applicable requirements under this section. Any intended changes to the current state plan regarding the designated state agency or unit must be submitted as part of a state plan amendment for final approval by the Rehabilitation Services Administration and must identify the designated state agency organizational structure in accordance with the state plan requirements under the Rehabilitation Act.

Currently, twenty-five states in the country have chosen the separate-agency structure as the model for providing vocational rehabilitation services to individuals who are blind. According to data compiled by the Rehabilitation Services Administration, those states that have separate agencies for the blind have consistently reported higher employment outcomes than agencies which have a combined-agency structure. These findings have also been consistently supported and extensively documented by numerous other

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Page 2 - Dr. Donna Balaski

independent professional studies for nearly two decades. These studies suggest that a separate-agency organizational structure is, by its very nature, better able to respond to and meet the special rehabilitation needs of individuals who are blind more effectively and efficiently, and this accounts for the higher performance in achieving employment outcomes by separate agencies for the blind.

In light of this record of performance by separate agencies for the blind and given the critically high unemployment rate among the blind (approaching nearly 80 percent nationally), blind consumers from throughout the country have expressed serious concerns over the potential decline in the quality of services and responsiveness to the needs of blind consumers of rehabilitation services in instances when this type of reorganization is being contemplated to take effect in any particular state.

We trust that you will give serious consideration to these concerns as you further evaluate the merits of proceeding with this proposed reorganization. If we can be of any further assistance in this regard, please do not hesitate to contact us at your convenience.

Respectfully,



Joe D. Cordova, Director  
Division for the Blind and  
Visually Impaired



STATE OF CONNECTICUT

**Board of EDUCATION AND SERVICES FOR THE BLIND**

**Response to Program Review & Investigations Committee Report on  
Services to Connecticut's Blind Entrepreneurs, Workers, and Residents**

A. We agree that the great preponderance of vending machine money should be used to develop entrepreneurial and employment-related opportunities and skills for blind residents: Section 10-303 did not originally relate to employment *per se*; rather, the purpose of the statute was to support *blind entrepreneurs* (i.e., self-employment). Prior to and following the original enactment of 10-303, other statutes allowed B E S B to provide training and support for *traditional* employment.<sup>1</sup>

*True blind entrepreneurs – that is, self-employed blind residents – are supported through the vending machine program, and receive no support whatsoever from the general fund. And self-employment has been and continues to be the primary focus of this program.*

- About 90% of the vending monies that B E S B spent in the 24-month period of January, 2001 to January, 2003 was spent to provide training and support to 36 current and new blind entrepreneurs.<sup>2</sup>
- 3.5% was spent to provide computer training and community/workplace integration skills to 13 blind youth who are potential entrepreneurs.
- During this same period, 6.5% of the vending monies was used to provide independent-living support (low vision evaluations and aids) to some of the state's 13,000 blind residents (9,500 of whom are seniors).<sup>3</sup>

There is a 70% unemployment rate among blind working-aged residents. This is partially because many potential blind workers lack the hard and soft skills that allow for entrepreneurial

<sup>1</sup> The current authority for the agency's role in traditional employment lies within our Vocational Rehabilitation program, which has been funded by federal dollars since the enactment of the federal LaFollette Vocational Rehabilitation Act in the 1940s.

<sup>2</sup> This includes program operating costs. Committee staff have suggested that over time, the vending machine money "came to be used for program operating costs, but [that] no formal basis for this change is evident." After giving this suggestion the utmost attention, we feel obliged to note that the use of funds to support program operations is on firm statutory foundation. Under the standard and well-accepted rules of statutory construction, a public agency is empowered to do all that is necessary to discharge its enumerated duties, objects, and purposes. Thus, the agency's administrative costs of supporting the vending machine and entrepreneurial program is well within the agency's authority.

<sup>3</sup> This amount is not considerable in the context of the annual vending machine revenue. However, from the perspective of serving seniors, this amount is invaluable, since it will allow us to serve an additional 600 people in the next year, most of whom are seniors. Age is the singlemost powerful cause of blindness, and 70% of our 13,000 population is more than 55 years old.

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and employment success and independence. We are of the position that the great preponderance of vending machine income should be focused on employment outcomes.<sup>4</sup>

B. Our Plan Promotes Employment and Related Skills: The programmatic vision, purposes, and goals of the Business Plan that we submitted in March of 2002 have not changed. However, one year later, projections for revenues and expenditures have been revised because of changing circumstances. We have not been able to refill some important staff positions, which has hindered our efforts to grow this initiative. Very recent layoffs have aggravated the situation. In accord with the recommendations contained in the report, our own view is as follows:

1. Support *current blind entrepreneurs* (remodeling sites, update equipment, professional development, benefits, etc.).
2. Develop and refurbish *new sites for new entrepreneurs*.
3. Provide and develop entrepreneurial skills and opportunities for *potential* blind entrepreneurs.
4. Promote employment through our Leaders for Tomorrow initiative:
  - Develop and provide employment-mentoring opportunities for blind youth.
  - Provide higher education scholarships to blind youth who are studying to become entrepreneurs or educators for people who are blind.
  - Fund specialized school-to-work training programs provided through public-private partnerships, with remedial training in the hard and soft skills necessary for successful employment.
5. Through collaborations with outside experts:
  - Develop a cadre of new clients who are fully equipped for entrepreneurial success.
  - Finance and support successful new blind-owned businesses.
  - Provide and develop opportunities for “demand-side” employment training, systemically linked to the state’s workforce and economic development systems. Training would be in the hard and soft skills that blind residents need for employment (entrepreneurial, competitive, and supported).
  - Expand and reform private-public networks to ensure that blind youth receive the hard and soft skills necessary for successful employment.
6. Expand outreach to blind residents, with special emphasis on minority populations.
7. Continue providing low-vision evaluations and aids to new clients (primarily seniors), because the general fund appropriation for this purpose has not kept abreast of demand. One possible interpretation of the Report is that B E S B discontinue its current practice of using approximately 10% of the annual vending revenue to provide low-vision services to approximately 600 adults – most of whom are seniors. We are not clear as to whether this interpretation accurately reflects the intent of Committee members. If this is the Committee’s intention, we should point out that prohibiting this expenditure will require additional general funds to replace this revenue. Absent additional funds, many adults will

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<sup>4</sup> The Report recommends that “[a]s part of the budgetary process, B E S B shall be required to report annually to the Appropriations Committee on the number and type of new jobs it created for blind individuals during the preceding year.” Here we should note that the information referenced is already available to the legislative branch and the public at large through B E S B’s annual Administrative Report, and in the public update that we publish on a quarterly basis. B E S B will certainly make this information available to all interested parties upon request, particularly in advance of the budgetary process. A legislative mandate is unnecessary.

not be able to maintain their independence. They could then become dependent on Medicaid and other state services.<sup>5</sup>

C. Contracting Procedures and Policies: We are pleased that the Report acknowledges, as have others, that the statewide vending machine contract was produced through a process that was fully open and competitive. The Report also confirms that the agency's decision to enter into the agreement with Coke was based on the letter from the Office of the Attorney General, which affirmed that the bid and contracting process was beyond the scope of the statutory requirements of Personal Service Agreements, because the vending machine contract did not "involve the payment of money by B E S B."

We also are pleased to point out that we have addressed, and will continue to address (through the promulgation of written policies and other means), some of the contracting issues identified in the Report. For example, we have articulated our policy decision that all future vending machine contracts shall be aligned with the statutory requirements that apply to state procurement and contracting. Our written policy will ensure that that vending machines or sales outlets shall not be established on public property under the auspices of 10-303 except (1) through the open, publicized, and competitive bidding, negotiating, and contracting process, standards, and policies already established in state statute, regulation, and policy; and (2) under a written permit issued to the agency by the site authority, which permit shall reflect any and all agreements between said site authority and the agency. We believe that this policy, and others, will promote many of the goals identified in the Report.<sup>6</sup>

D. Contract Management and Policies: Prior to the publication of the Report, B E S B had already taken significant steps to enhance the administration and oversight of the vending machine contract, especially in the areas of policy development, contract management, and compliance. (In the months before, the agency's program staff focused extensively on providing additional support and services to the agency's blind entrepreneurs, many of whom were in difficult circumstances.)

1. We have established direct access to Coke's data-base, as of November, 2002.

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<sup>5</sup> The number of people who are blind in Connecticut is expected to *double* in this decade (from 13,000 to 26,000) because people are living longer and becoming blind later in life. The general fund appropriation made by the legislature for low-vision services (Supplemental Relief and Services) simply has not kept abreast of demand. These are services that allow many seniors to remain independent. *THE FISCAL REALITY IS THIS: Absent the infusion of more funds, many newly-blind seniors could be left without the skills and aids they need to retain their independence.* Because of these facts, the General Assembly, through Public Act 01-9 (June Special Session), empowered us to use some of the vending machine revenue to better address the realities of life for the state's 13,000 blind residents – 9,100 of whom are seniors.

<sup>6</sup> The Report's recommendation that future processes be administered solely by DAS is commendable, but unnecessary. As of November, 2002, the business, procurement, and bidding components of the vending machine program have been taken over by our own business office, which operates our financial, procurement, and contracting processes under applicable statutes, regulations, and policies. Also, under our new policy, DAS would be involved as is otherwise required under governing processes, without the hindrances and confusion created by a new statutory scheme.



2. We have taken steps to establish continuing audits of the vending-machine reporting systems, individual snack and beverage machines, and related disbursement of funds. In early January, 2002, we requested OPM approval to enter into two Personal Service Agreements:
  - One PSA is for “comprehensive management review and audit of Coca Cola operations, management, financial and other controls, financial reporting, and other aspects of compliance.” Under this PSA, outside auditors will provide us an outside perspective. They will fully review and make recommendations to improve the areas cited above. This will help us ensure compliance with our existing contract, and the spirit and principles of law, sound public policy, and sound business practices that relate to public funds and entities.
  - The second PSA is to “carry out, on behalf of BESB, an ongoing program of field audit activities of Coca-Cola operations, including but not limited to accuracy of sales reporting and payments; review/audit of machine installation. . . and other aspects of compliance. . . .” Under this PSA, outside auditors will carry out day-to-day auditing functions on our vending machines.
3. We have begun consultations with our vending machine contractor to formally determine how and when all issues of compliance will be addressed. This process will continue once the PSAs are in place.

E. Workplan: We will present an Agency Workplan, detailing how we will implement recommendations received from numerous sources, including Committee members and staff.<sup>7</sup> As we move forward in this process, we must call your attention to certain factors that are beyond our control. Due to state layoffs – including the loss of the vending machine program’s only fiscal administrative assistant – our Business Office (which will supporting these and many other changes) is now operating with 36% fewer employees. Even before the layoffs, we were unable to fill or refill positions within the program, despite numerous requests. These constraints, and others that might arise, certainly will have some impact. Nevertheless, we certainly will undertake good faith and earnest efforts to meet the goals established in our formal plan:

1. We have already produced and will continue producing formal, written policies regarding expenditures of vending machine revenue.
2. As of October, 2002, at the suggestion of OPM, the vending machine business, accounting, procurement, and contract administration processes have been transferred to our own business office.

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<sup>7</sup> In this area, the Report expresses the opinion that if B E S B does not, by a date certain, “provide [the Committee] with documented evidence that B E S B has taken the necessary steps to implement” certain actions, then B E S B “shall be converted into a subdivision within the Department of Social Services. . . under the active control of the commissioner” of DSS. Numerous studies from across the nation have documented that the quality and timeliness of services to blind people invariably decrease when a self-standing blind agency, such as B E S B, is subsumed into a larger agency. As the state’s first social service agency, with a 100-year history of serving blind residents, we reject the incautious assumption that services to our clients will improve if the agency is shifted into a second and much vaster agency.

3. After consultation with various managers and other stakeholders, we have established and will continue establishing formal policies and procedures to address issues identified by the Committee and others (fiscal accountability, contract management, procurement, legal and ethical compliance, quality assurance, placement of machines, revenue disbursement, consistency in operations, etc.). The policies and procedures have taken and will continue to take into account principles of statute, regulation, public policy, and sound business practice, and will address many of the issues identified by the Committee and others:

- Terms and conditions under which B E S B will disburse vending machine funds to student or patient activity funds. In this regard, we are producing agreements with relevant school districts and state agencies (such as DMHAS and DCF). We expect that these agreements will first maximize blind participation in student and patient activities, with the remaining funds to benefit general student/patient activity funds.
- Procedures and penalties applicable to the removal of vending machines operated by other entities.
- Terms and conditions under which B E S B will disburse income to student or patient activity funds.
- Timetables and priorities for placing vending machines on new public sites.
- Policies and purposes for which B E S B will retain or place vending machines that are located in cafeterias.
- Creation of formal mechanisms to (1) collect consumer feedback regarding availability, quality, and prices for food and beverages sold from B E S B vending machines; (2) periodically and randomly inspect B E S B vending machines to ensure compliance with requirements of contract and Policy; (3) maintain and update current inventory of vending machines by location and type; (4) maintain and update list of public entities and locations that are not yet served by B E S B vending machines.
- Establishment of written guidelines for agency staff to use in approaching and communicating with public officials regarding the placement and operation of B E S B vending machines.
- Establishment of systems to produce and obtain uniform written permits for all B E S B vending machines, in accordance with requirements of statute, regulation, policy, and sound business practice.
- Establishment of formal policies to structure the agency's determination as to whether and under what terms and conditions the agency opts *not* to locate and operate vending machines on public sites.

F. Cap on Funds: A "cap" on the amount of money that the agency can carry forward each year might serve as an added inducement for the effective and efficient allocation of vending machine

funds to serve our clients. However, for such a cap to be productive and not destructive, several factors must be taken into account:

1. New Hires: Despite numerous requests to re-hire, the vending machine/blind business program is down 2 workers – despite remarkable growth in the program itself. The funds that have been set-aside for personnel must be excluded from the cap.
2. Working Capital: The program must have working capital if we are to be in position to respond to the needs of current and potential blind entrepreneurs and workers. For example, we fully expect to spend upward of \$750,000 this year simply to renovate three businesses (DOL, the State Office Building, and Rocky Neck). At the same time, we are developing new strategies that would allow blind workers to take advantage of new types of work opportunities, beyond the traditional cafeterias and gift shops. Through partnerships with experts in the area of small business incubation and support, we will be in a stronger position to serve our clients faster and better. A working capital fund year must be excluded from the cap, as well as funds that are obligated or committed.
3. Phase In: If a cap is indeed necessary, it should not be effective until the close of FY 2004.

G. Contract Participation and Revenue Allocation: Committee staff suggest the elimination of B E S B's statutory prerogative to operate vending facilities at institutions of higher education. The agency and Board object to the suggestion that Connecticut's blind citizens completely and permanently forego opportunities for employment on public campuses. These statutorily-created opportunities must remain available to the state's blind community as we attack the 70% unemployment rate by all available means. Our blind citizens are distributed throughout the state, and we must protect access to employment opportunities on local campuses.

H. Program Regulations: We generally agree with the Committee staff's conclusion that existing regulations regarding vending machine operations are "not applicable to the existing situation." Generally speaking, regulations and policies are produced for many reasons, including (1) to detail broader provisions of statute; (2) to enhance service delivery and promote quality assurance; (3) to meet due process considerations as between public agencies and clients or other interests; (4) to ensure consistency and eliminate arbitrariness; (5) to promote standards for self governance; (6) to fortify the organization; and (7) to ensure compliance with the requirements of law, ethics, sound public policy, and strong business practices.

There are two significant areas where the regulations can benefit from updating. First, the regulations are generally silent as to the operations of vending machines on state and municipal property, and as to the use of revenue derived from those sites. Second, the regulations have not kept abreast of changes in technology, cultural attitudes, applicable law, and local economies, all of which offer, for blind workers and entrepreneurs, significant opportunities that did not exist in the decades past. The Agency Board and leadership will continue working to update our regulations and policies to flesh out Section 10-303 of the Connecticut General Statutes, and to ensure that state practice better positions our clients to take advantage of emerging entrepreneurial and employment opportunities.

I. Sales in State Buildings: We generally agree that the state of Connecticut, as a whole, should take steps to clarify the processes and standards by which new types of vending machines are

placed in state buildings by blind vendors or B E S B, in exercise of the statutory prerogative embodied in Section 10-303. However, if legislation is enacted to accomplish this, we feel quite strongly that the legislation itself should mandate that B E S B and the blind community are intrinsically involved in the formulation and finalization of these rules and guidelines. At the same time, any new legislation must not dilute the statutory prerogative now available to the blind community.

As we close, let us again commend the arduous work and insightful recommendations of the Committee and Committee staff. We stand ready to work with you in the weeks ahead to improve upon our service delivery system so that Connecticut can better meet the developing needs and opportunities of the state's blind adults, youth, and seniors. We will be contacting you in the near future on this matter, and look forward to fruitful and informative discussions.

Thank you.