

Randolph/Sheppard Act Information

Q. What is the Randolph/Sheppard Act and does it hinder our cooperating association from having concessions or vending machines at Corps facilities?

A. The Randolph/Sheppard Act (RSA) requires certain government agencies such as those under Department of Defense to contract through either the National Institute of the Blind and/or National Institute for the Severely Handicapped (NIB/NISH) for concession and/or vending machine opportunities at federally owned facilities. Under certain conditions and with proper approvals (e.g. from a state-licensing agency) cooperating associations can provide concessions or vending machines and still be in compliance with this Act. See “Lessons Learned” and “Good Enough to Share” on the NRM Gateway for more details. Also, more RSA information can be found in Chapter 6A of Title 20 of the U.S. Code or at the following website:
<http://www.nfboho.org/legRS11.htm>.

Cooperating Associations can provide vending machines at federally owned facilities and be in compliance with the Randolph/Sheppard Act (RSA). The Randolph/Sheppard Act (RSA) requires certain government agencies such as those under Department of Defense to contract through either NIB or NISH for concession and/or vending machine opportunities at federally owned facilities.

Before your cooperating association is allowed to operate vending machines at Corps facilities, you should know the following:

1. If vending machines are placed in federally owned facilities, preference must be given to licensed blind individuals or organizations. However, many Corps water resource projects are located in areas where these options do not exist. Therefore, it is necessary to check into the availability of NIB/NISH and document your findings before you provide vending opportunities to any organization or individual who is not from the NIB/NISH. Facilities built by a grantee under a lease are not federally owned buildings and the grantee may provide services within the privately owned facilities, such as marina snack bars or dockside vending machines.
2. There may or may not be a state licensing agency for vending machines, so their approval could be required.
3. It may be possible that a cooperating association would be required to share 50% of vending machine revenues with NIB/NISH organizations, if profits exceed \$3,000; or they may need to give all proceeds to NIB/NISH if the vending machine provider is in direct competition with a NIB/NISH organization on the same premises.
4. Vending machine operation must not be the major function of the cooperating association. The language in the sample cooperative agreement for cooperating associations in Appendix P of EP 1130-2-500 covers this type of activity.

St. Louis District allowed a cooperating association, the Kaskia-Kaw Rivers Conservancy (KKRC), to provide vending machines at the visitor center and day use areas with beaches at Lake Shelbyville and Carlyle Lake in Illinois. The following is the justification they used to comply with the Randolph/Sheppard Act requirements. See “Good Enough to Share” for more information.

1. The Shelby County Community Services (SCCS) organization was notified of the opportunity to provide vending machines at Lake Shelbyville facilities. They stated they were in the process of applying to become a NIB/NISH vendor. However, SCCS said it would be impossible for the disabled workers they employ to get to all the remote locations around the lake and recycle these materials.
2. The federal government is not the contracting entity. The cooperating association is the party contracting for the machines and this removes the action one-step from the federal government. This is allowed through our agreement with them.
3. Sometimes cooperating associations operate under the terms of a real estate instrument such as the license for a sales area. St. Louis District does not require any of our lease or licensed concession areas such as marina snack bars or their vending machines to comply with the Randolph/Sheppard Act by offering those opportunities to the NIB/NISH. This is because facilities built by a grantee under a lease are not federally owned buildings and the grantee may provide services within the privately owned facilities, such as marina snack bars or dockside vending machines.
4. The vending machines fall under the exclusion clause in the Act itself, which states the following about certain locations excepted:

[T]his section shall not apply to. . .vending machines not in direct competition with a blind vending facility at individual locations, installations, or facilities on federal property the total [income] of which at such individual locations, installations, or facilities does not exceed \$3,000 annually.
5. Income is defined in the law essentially as net profit. So, if the vending machine does not compete with, for instance, a snack bar like the one operated by the blind in the lobby of an HQ/district/division office building, and the income from the machine is less than \$3,000 annually, the Act does not even apply.
6. Their vending machines include messages that promote recycling of the plastic bottles in them. Among other things, the income from the machines is used by KKRC to provide recycling containers for the bottles from the machines, and it covers the costs of emptying those containers and recycling the material collected.
7. The KKRC elected to contract with a cola supplier instead of purchasing the machines and stocking them on their own. In an effort to ensure that the KKRC provided the best possible service to the government, we asked them to provide the opportunity to bid on those services to all the major suppliers (Coke and Pepsi) within the area. It was a process similar to how

we would award a license. We also required them to keep a record of the bids so if anyone complained, we could verify what took place. This meant they could award to the company that would provide the best deal for KKRC. By the nature of our cooperative agreement, that means it also helps the government.

8. If you have any questions or need further clarification, please contact the Operations Project Manager, Lake Shelbyville. Phone: (217) 774-3951, Fax: (217) 774-2014.