

**§ 395.7**

make the necessary maintenance, replacement, or repairs and make equitable arrangements for reimbursement;

(c) Where the vendor owns such equipment and is required to maintain the vending facility in good repair and in an attractive condition and replace worn-out or obsolete equipment, or agrees to purchase additional new equipment, service charges for such purposes shall be equitably reduced and the method for determining such amount shall be established by the State licensing agency in writing;

(d) Where the vendor owns such equipment, the State licensing agency shall retain a first option to repurchase such equipment, and in the event the vendor-owner dies, or for any other reason ceases to be a licensee, or transfers to another vending facility, ownership of such equipment shall become vested in the State licensing agency for transfer to a successor licensee subject to an obligation on its part to pay to such vendor-owner or his estate, the fair value therein; and

(e) The vendor-owner, his personal representative or next of kin shall be entitled to an opportunity for a full evidentiary hearing with respect to the determination of the amount to be paid by the State licensing agency for a vendor's ownership in the equipment. When the vendor-owner is dissatisfied with any decision rendered as a result of such hearing, he may file a complaint with the Secretary under §395.13 to request the convening of an ad hoc arbitration panel.

**§ 395.7 The issuance and conditions of licenses.**

(a) The State licensing agency shall establish in writing and maintain objective criteria for licensing qualified applicants, including a provision for giving preference to blind persons who are in need of employment. Such criteria shall also include provisions to assure that licenses will be issued only to persons who are determined by the State licensing agency to be:

- (1) Blind;
- (2) Citizens of the United States; and
- (3) Certified by the State vocational rehabilitation agency as qualified to operate a vending facility.

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(b) The State licensing agency shall provide for the issuance of licenses for an indefinite period but subject to suspension or termination if, after affording the vendor an opportunity for a full evidentiary hearing, the State licensing agency finds that the vending facility is not being operated in accordance with its rules and regulations, the terms and conditions of the permit, and the terms and conditions of the agreement with the vendor.

(c) The State licensing agency shall further establish in writing and maintain policies which have been developed with the active participation of the State Committee of Blind Vendors and which govern the duties, supervision, transfer, promotion, and financial participation of the vendors. The State licensing agency shall also establish procedures to assure that such policies have been explained to each blind vendor.

**§ 395.8 Distribution and use of income from vending machines on Federal property.**

(a) Vending machine income from vending machines on Federal property which has been disbursed to the State licensing agency by a property managing department, agency, or instrumentality of the United States under §395.32 shall accrue to each blind vendor operating a vending facility on such Federal property in each State in an amount not to exceed the average net income of the total number of blind vendors within such State, as determined each fiscal year on the basis of each prior year's operation, except that vending machine income shall not accrue to any blind vendor in any amount exceeding the average net income of the total number of blind vendors in the United States. No blind vendor shall receive less vending machine income than he was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this paragraph. No limitation shall be imposed on income from vending machines, combined to create a vending facility, when such facility is maintained, serviced, or operated by a blind vendor. Vending machine income

disbursed by a property managing department, agency or instrumentality of the United States to a State licensing agency in excess of the amounts eligible to accrue to blind vendors in accordance with this paragraph shall be retained by the appropriate State licensing agency.

(b) The State licensing agency shall disburse vending machine income to blind vendors within the State on at least a quarterly basis.

(c) Vending machine income which is retained under paragraph (a) of this section by a State licensing agency shall be used by such agency for the establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for blind vendors in such State, if it is so determined by a majority vote of blind vendors licensed by the State licensing agency, after such agency has provided to each such vendor information on all matters relevant to such purposes. Any vending machine income not necessary for such purposes shall be used by the State licensing agency for the maintenance and replacement of equipment, the purchase of new equipment, management services, and assuring a fair minimum return to vendors. Any assessment charged to blind vendors by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

**§ 395.9 The setting aside of funds by the State licensing agency.**

(a) The State licensing agency shall establish in writing the extent to which funds are to be set aside or caused to be set aside from the net proceeds of the operation of the vending facilities and, to the extent applicable, from vending machine income under § 395.8(c) in an amount determined by the Secretary to be reasonable.

(b) Funds may be set aside under paragraph (a) of this section only for the purposes of:

- (1) Maintenance and replacement of equipment;
- (2) The purchase of new equipment;
- (3) Management services;
- (4) Assuring a fair minimum of return to vendors; or

(5) The establishment and maintenance of retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is so determined by a majority vote of blind vendors licensed by the State licensing agency, after such agency provides to each such vendor information on all matters relevant to such proposed purposes.

(c) The State licensing agency shall further set out the method of determining the charge for each of the above purposes listed in paragraph (b) of this section, which will be determined with the active participation of the State Committee of Blind Vendors and which will be designed to prevent, so far as is practicable, a greater charge for any purpose than is reasonably required for that purpose. The State licensing agency shall maintain adequate records to support the reasonableness of the charges for each of the purposes listed in this section, including any reserves necessary to assure that such purposes can be achieved on a consistent basis.

**§ 395.10 The maintenance and replacement of vending facility equipment.**

The State licensing agency shall maintain (or cause to be maintained) all vending facility equipment in good repair and in an attractive condition and shall replace or cause to be replaced worn-out and obsolete equipment as required to ensure the continued successful operation of the facility.

**§ 395.11 Training program for blind individuals.**

The State licensing agency shall ensure that effective programs of vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, shall be provided to blind individuals as vocational rehabilitation services under the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516). Such programs shall include on-the-job training in all aspects of vending facility operation for blind persons with the capacity to operate a vending facility, and upward mobility training (including further education and additional training or