

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

October 12, 2011

Linda Mock, Administrator  
Oregon Commission for the Blind  
535 SE 12th Avenue  
Portland, OR. 97214

Dear Ms. Mock:

Enclosed please find our initial draft of the monitoring report evaluating the Oregon Commission for the Blind's Randolph-Sheppard Program. We appreciated the opportunity to conduct this on-site visit, and we hope this report, collaboratively developed with your agency, helps further the effective and efficient administration of the Business Enterprise Program in Oregon,

Please review this draft report and provide us with any written substantive feedback you may have about the document within 30 days of receiving it. We will consider any comments you offer and issue a final report soon thereafter. In the event that you fully accept this report as currently drafted, i.e., you have no substantive comments to register with us regarding the content, please let us know and we will issue the report as final.

We direct your attention in particular to the 11 recommended action items in this report. These are the important take-away points that you should focus on as you review the entire narrative. For your convenience, we summarize these items at the end as well as highlight them in context throughout the document. Because of its importance, please note that we plan to follow up with you within six months to assess your specific progress in implementing the suggested guidance in Recommended Action 10 relating to development of a formalized training program for Randolph-Sheppard participants in Oregon.

In closing, we would simply like to acknowledge the professionalism, hard work and innovative initiatives that we observed in our interactions with Walt Reyes, the Randolph-Sheppard Program director. Our team was impressed with Mr. Reyes's positive spirit and commitment to administering an effective and flourishing program during our visit.

Should you have questions about this letter or the enclosed report, please direct them to Daniel Frye at (202) 245-7308; [Daniel.Frye@ed.gov](mailto:Daniel.Frye@ed.gov). Thank you.

Sincerely,

Thomas E. Finch  
Director, Training and Service Programs Division  
Rehabilitation Services Administration

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## **RANDOLPH-SHEPPARD PROGRAM REVIEW**

Prepared By: Rehabilitation Services Administration, U.S. Department of Education

Agency Reviewed: Oregon Commission for the Blind  
535 SE 12th Avenue  
Portland, Oregon 97214

Dates of Review: September 20-22, 2010

RSA Reviewers: Suzanne Mitchell, VR Program Specialist  
Daniel B. Frye, VR Program Specialist

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## GENERAL OVERVIEW

The Randolph-Sheppard program site visit and administrative review was conducted during September 20-22, 2010, at the Oregon Commission for the Blind (OCB) in Portland, Oregon. The reviewers completed comprehensive interviews with OCB staff involved in the administration and implementation of the Randolph-Sheppard Business Enterprise Program and with members of the Business Enterprise Consumer Committee (BECC), the elected committee of blind vendors in the state. It should be noted that this was primarily a programmatic review and did not include an in-depth fiscal review. In addition, the reviewers visited four vending facility locations, selected to represent the diversity of the vending operations in the Oregon program, which provided opportunities to talk directly to several facility managers.

The Oregon Business Enterprise Program is relatively small, reportedly providing career opportunities to between 18 and 22 blind operator/managers. Despite its size, Oregon has an innovative and far-reaching "little Randolph-Sheppard" state statute and implementing regulations (ORS 346.510-346.570) that grant a priority to licensed blind vendors on "public buildings owned, leased or occupied by the state or any of its political subdivisions."

The relationship between OCB management and the BECC is strained, and all involved parties (agency leaders and the blind vendors on the BECC) exhibit little confidence that the other possesses a good faith commitment to the principles and successful operation of the program. Several federal arbitrations involving the Oregon vending program are currently pending, and RSA staff has facilitated agreements in other matters prior to these reaching a forum for formal resolution. Conflict over the meaning and practical application of the principle of "active participation," differences over state licensing agency policy interpretations, and divergent opinions over program priorities represent the primary points of disagreement. Agency managers and blind vendors have taken action to improve their relationship. By way of example, a retreat for BECC members and other leading vendors with the Oregon Business Enterprise Program director for the purpose of fashioning a definition of "active participation" was held in late September 2010. Those involved hope this and future joint initiatives will yield positive results.

## SPEC WIC PROGRAM AND FISCAL OBSERVATIONS

The following analyses, comments and observations were developed from interviews with state agency staff, review of documents provided to RSA personnel, and the input from blind vendors serving on the Oregon BECC.

### A. Program Structure and Organization:

In Oregon, the Randolph-Sheppard Business Enterprise Program (BEP) is administered under the Oregon Commission for the Blind (OCB), a separate state vocational rehabilitation agency governed by a seven-member commission appointed by the Governor. A majority of the members of the commission must be blind. For over 50 years, the OCB has been an important resource to blind and vision impaired Oregonians, as well as their families, friends, and employers. The agency's mission is to "assist blind Oregonians in making informed choices and decisions to achieve full inclusion and integration in society through employment, independent

living, and social self-sufficiency.” The OCB is the designated state licensing agency (SLA) for the Randolph-Sheppard program in Oregon.

The Oregon BEP staff is comprised of a program director, who reports to the OCB administrator, and one BEP field representative. These two positions are the only staff roles funded as part of the separate Randolph-Sheppard budget in Oregon. Fiscal and administrative services are supported through from the commission’s general administrative budget The Business Enterprise Consumer Committee consists of six elected blind vendors, representing all regions of the state.

The Oregon Commission for the Blind leadership identified several systemic programmatic issues that affect the optimal operation of the BEP. These issues included, but are not limited to, the following:

1. Poor communications and a lack of mutual trust and confidence between agency management and the BECC;
2. Ambiguity in interpreting the principle of ”active participation”;
3. Lower than desired vendor earnings.

As noted previously, there are a variety of issues between members of the BECC and agency management. Both agency leaders and BECC members expressed a lack of confidence, and uncertainty about the motivation and good faith of the other. For example, communications challenges and tensions stem from disputes over the adoption of a new definition of ”active participation” that the OCB leadership proposed and debate over an OCB-sponsored legislative proposal to substantially modify the state statute governing the state component of BEP operations. To the credit of both parties, the definition of ”active participation” was agreed upon during a retreat between agency management and BECC members in late September 2010. Nevertheless, general concerns about effective communications and a good working relationship remain. Further, the reviewers noted relatively low vendor earnings, and OCB managers agreed with this observation.

Findings: The reviewers identified critical problems in the relationship between OCB management and representatives of the program’s blind vendors serving on the BECC. The consequences of these problems include a disproportionate number of filed or proposed grievances and repeated statements from both agency managers and members of the BECC that they lack confidence in one another’s stewardship of the program.

In general, the reviewers observed that vendors in the Oregon Randolph-Sheppard program earn low annual wages, significantly below the national average for vendors in BEP operations across the country. In 2009, the national average vendor earning was \$51,664; blind vendors in Oregon earned on average \$17,983 during the same reporting period.

Recommended Action 1:

OCB management and members of the BECC should continue to take definitive steps to improve collaboration for the benefit of the Oregon Randolph-Sheppard program. Such steps might include working with a dispute resolution, conciliation, or other professional communications

consultant.

#### Recommended Action 2:

A formal written communications protocol should be established between OCB management and BECC members to govern and document accurately and consistently the communication and resolution of issues and decisions.

#### Recommended Action 3:

The OCB, with the active participation of the BECC, should develop and implement programmatic strategies to increase vendor earnings in the Oregon program. Combining low earning locations into single operations, identifying new and stronger locations through targeted program marketing efforts, and effective recruiting of qualified, highly-motivated blind entrepreneurs to enter the program are often effective approaches to achieving this end. The OCB and participating vendors in the program should consider these and similar steps to improve vendor earnings.

#### B. Program Personnel:

The Oregon BEP staff is comprised of a program director who reports to the OCB administrator and one BEP field representative. These two positions are the only staff roles funded as part of the separate Randolph-Sheppard budget in Oregon. Fiscal and administrative services are provided as part of the commission's general administrative budget.

The single BEP field representative is responsible for the day-to-day supervision of all vendors in the Oregon BEP program and for any periodic monitoring that the OCB conducts throughout each fiscal year. Evidence of limited monitoring of participants in the Oregon Randolph-Sheppard program exists. For instance, some vendors interviewed reported not receiving regularly scheduled monitoring visits from OCB program staff at their vending locations during the course of the year. Such visits are supposed to be conducted pursuant to state policies but may not have been possible because of the limited number of staff employed in this program. Further, additional staffing would be helpful in facilitating creation of new vending sites and recruitment of additional program operators. According to the BEP director, "The program has been mostly dedicated to maintaining what we have instead of developing new locations or recruiting new participants." At the time of the review, several new prospects for new vending sites had emerged, but these opportunities had not been confirmed. On average only one person is closed as a new BEP participant each year.

Findings: The reviewers noted that additional staffing in the Oregon Randolph-Sheppard program would be useful in providing better monitoring of program participants, offering technical assistance to inquiring vendors, developing new vending locations, and recruiting new candidates for the program.

#### Recommended Action 4:

OCB managers should review staffing needs and consider options to achieve appropriate staffing levels.

#### C. Related State Laws:

Oregon has a mini *Randolph-Sheppard Act* (ORS 346.510-346.570). The state law appears to be compliant with the federal statute. This state statute appears to be a progressive piece of legislation, drafted and designed to provide remunerative employment to eligible candidates for the Oregon Randolph-Sheppard Program.

#### D. State Licensing Agency Designation—Policies and Procedures:

The Oregon Commission for the Blind is the designated state licensing agency for the Randolph-Sheppard Program. The U.S. secretary of education has approved rules governing the program in the state. The rules dated 2001 are the most recent, fully approved set of rules for the program. The Oregon Commission for the Blind is in the process of redrafting their state policies and procedures and will be forwarding a final version of these to RSA for approval once they have been completed. The reviewers noted that OCB management has been working on completing a revised set of policies and procedures for several years now.

#### Findings:

Due to the length of time it has taken the state to adopt a revised set of policies and procedures, vendors in the Oregon program continue to operate under old rules while they and the program would benefit from the adoption of updated governance guidance. The indefinite length of time associated with this process may hamper the adoption of new best practices in the Oregon program.

#### Recommended Action 5:

OCB management, in consultation with the BECC, should expeditiously complete the revision of the program's policies and procedures. In accordance with RSA's rules, these new policies and procedures should be forwarded to RSA for review before they are implemented.

#### E. The Elected Committee of Blind Vendors:

The Business Enterprise Consumer Committee (BECC) is the entity in Oregon that serves as the elected committee of blind vendors. Six licensed managers (five regional representatives and a chair person) constitute the BECC's structure. The committee, as outlined in its bylaws, is representative of the vendors across the state in terms of geography, facility type operated, and — to the extent possible — proportional representation between operators on federal and state properties. According to the BECC bylaws, the committee meets in-person at least once every two months, but provision for telephonic meetings exists. Finally, the bylaws indicate that the committee is subject in certain circumstances to the provisions of the *Oregon Public Meetings Act*.

Members of the elected committee need to act with independence and integrity so that the representative body authorized under the *Randolph-Sheppard Act* can play a meaningful part in program deliberations. However, despite bylaws that guarantee that the BECC will be a representative body, the reviewers identified issues of representation on the vendor's committee resulting from internal committee conflicts. For example, RSA reviewers noted that at least one committee member was added to the BECC without a complete vote from the program's eligible voting non-committee members.

Monitoring also revealed that meetings of the BECC were not in compliance with provisions of the *Oregon Public Meetings Act*, and agendas and other materials for public meetings of the BECC were not provided in alternative formats. These issues warrant resolution so that the BECC operates as effectively as possible.

The reviewers met in-person with the members of the BECC and other leaders within the Oregon vending community for better than two hours on the afternoon of Monday, September 20, 2010. During this meeting, members of the BECC disclosed significant dissatisfaction about their relationship with agency management. They identified numerous anecdotal issues, all suggestive of their perception that the agency was not invested in allowing them to participate actively in the program's administration. Further, they signaled concerns about the absence of training, upward mobility, program expansion, monitoring, and a general lack of confidence in the capacity of the agency staff assigned to this program to administer it competently.

#### Findings:

The reviewers identified several flaws (e.g., issues of representation, compliance with provisions of the *Public Meetings Act*, and provision of materials in alternative formats) in the operation and management of the BECC. The Oregon Commission for the Blind has an obligation to see that the BECC operates in compliance with state public meeting laws and those agendas and other materials are provided in accessible formats. The BECC needs to exercise care in the way in which it construes its right to dismiss and appoint members unilaterally, without consultation or involvement of the broader blind vendor community. The concerns that the BECC articulated about the Oregon BEP were noted by the review team. Improvements in the BECC's own operating practices, however, may assist the committee in helping OCB management resolve the systemic problems that BECC members identified with the state's Randolph-Sheppard Program.

#### Recommended Action 6:

Both BECC members and the management of the Oregon Commission for the Blind should work to evaluate and regulate the operation of the committee so that it plays a constructive and transparent role in the advancement of the state's Randolph-Sheppard program. This may involve OCB management taking measures to comply with providing materials in alternative formats, both parties honoring the letter and spirit of the state's public meetings law, and the BECC conducting business in a more open fashion, mindful of its obligation to afford its members, and vendors in Oregon generally, fair treatment in their interaction with the committee.



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#### F. Policies and Procedures:

Vendors are informed about state and federal laws and regulations governing the program as a part of the vendor training curriculum. However, documentation of this training and receipt of regulations and policy was intermittent or non-existent in several of the files reviewed.

In recent months, the BECC has been more actively participating in administrative decisions and in the development of policies, procedures, regulations and amendments as reflected in the minutes of the BECC meetings. Members of the BECC recently were deeply involved in drafting a detailed policy defining the meaning and application of the principle of "active participation." While the relationship between the BECC and agency management remains strained, effort at constructive communication has taken place through the auspices of the state REP director. The BEP director appears to be trying to facilitate good faith dialogue with Oregon's vendors and is working to incorporate upgrades and innovations into Oregon's small vending program.

There is no formal communications process for promoting decision-making or commenting on substantive policies and procedures between the BECC and agency management. Additionally, there is no indication of efforts to provide information in alternative media to vendors on other than cassette tape during the initial vendor training process.

#### Findings:

Training records do not routinely indicate that vendor trainees have been informed and understand policy and regulations. Additionally, there appears to be no formal process for addressing BECC requests and recommendations or the exchange of policy decisions and notifications between the agency and the vendors. (See Recommended Action 2)

#### Recommended Action 7:

The agency should provide policy documents and program regulations in accessible formats to vendors and document the receipt and understanding of such materials, as appropriate, in the training records and personnel files of trainees.

#### G. Vendor Personnel Files:

The review of vendor personnel files revealed problems and inconsistencies in some documentation and the maintenance of records. This monitoring revealed that BEP personnel in Oregon, often within days prior to the review visit, worked hard to update their personnel folders by adding recently dated materials to complete the files. We reviewed four personnel files during this exercise.

Despite efforts to update the files, several of the reviewed files either failed to include or provided inconsistent documentation of U, S. citizenship, certification of the ability to operate a vending facility, copies of vendor licenses, upward mobility training, equipment and inventory lists, permits, acknowledgement of policies and procedures for administrative reviews and receipt of regulations, transfer and promotion documentation, and agency actions or complaints.

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### Findings:

Information contained in the vendor personnel files was incomplete in most cases. Routine oversight and audit of the files appears to be lacking.

### Recommended Action 8:

Since existing commission policies do not include details on personnel file management, the SLA should develop procedures and staff training for organizing and structuring vendor personnel records to include the required information previously referenced in this narrative. Further, the SLA should periodically audit these files to ensure proper documentation is present.

### H. Vendor Training:

The monitoring team noted that no formal new vendor training component is in place for the Oregon Randolph-Sheppard program. A formal curriculum has existed and is being redesigned at this writing, but in practice we saw no evidence that any structure or consistent new vendor training program is being implemented. Both agency management and elected committee leadership report that vendors entering the program are, as part of any training required of them before licensure, asked to do some on-the-job work with a currently licensed vendor. The length, duration and quality of the experience for such hands-on instruction are not uniform for all new vendors in the program. These facts may be partially attributed to the low numbers of vendors entering the program and the relatively informal nature of the program's administration. The low referral rate to the program indicates a need for increased coordination with the VR program and perhaps a better use of the Randolph-Sheppard program as a viable employment opportunity by VR counselors.

The BECC, in conjunction with the OCB, provides in-service and any upward mobility instruction to existing vendors through periodic statewide meetings that the BECC manages. Program participants and OCB staff have benefited from refresher training through participation in national Randolph-Sheppard training conferences like BLAST and Sagebrush.

### Findings:

It was determined based on a review of data/information that the training program, for new vendors in the Randolph-Sheppard program, was insufficient to meet trainee's needs. This will potentially disadvantage the program in the long-term and harms the participant when he or she is admitted to participate as a vendor.

### Recommended Action 9:

The OCB, in collaboration with the BECC, should complete the redesign of the training curriculum and take steps to strengthen and implement a quality new vendor training program for the Oregon Randolph-Sheppard program. Since this issue is deemed important, RSA will follow up with Oregon's SLA within six months of the issuance of the final report to inquire about the progress realized in relation to this recommended action.

## I. Vendor Rights and Remedies:

Vendors understand their right to seek administrative review, full evidentiary hearing, and arbitration when there is disagreement with any action that the SLA may take. The monitoring team saw no evidence that vendors are specifically advised of their appeal rights through any alternative media, but the disproportionate number of formal appeals that Oregon's blind vendors have filed, relative to the size of the state's program, against actions that the SLA has taken suggests that program participants are sufficiently familiar with their statutorily defined rights under the Randolph-Sheppard program. The high volume of administrative reviews, full evidentiary hearings, and requests for arbitration from Oregon vendors against decisions that the SLA has taken reflects the state of relations between the state's vendors and OCB management.

## J. Permits:

According to the SLA, permits and cafeteria contracts are reviewed with vendors, staff and building management to assure that requirements are understood and followed. Not all vendor files examined, however, contained copies of the relevant permits. On-site visits to vending facilities did reveal that required licenses were displayed. If not already a practice, the SLA should review permits and contracts routinely.

## K. Facility File:

The OCB does maintain facility-specific files. While the agency maintains that it has copies of current contracts and permits, purchase orders, invoices, profit and loss statements, inspection reports, complaints related to facility management, and inventory records on file, not all of these items were present or easily accessed in the facility files we examined. We noted, particularly, the absence of any formal inventory system, save the equipment data referenced when managers leave or transfer locations.

### Findings:

The monitoring team noted the absence of a robust inventory system, save an accounting of equipment during vendor transfers or relocations. The policy, as we understand it, is to tag items valued at \$5,000 or more.

### Recommended Action 10:

OCB management should institute a more robust inventory and accounting system for property and merchandise housed at each of its locations, including a policy that tags all equipment purchased with federal or state funds in accordance with federal and state requirements. A \$5,000 threshold value before requiring that an item be tagged invites too much potential for loss of federal or state-purchased property,

## SUMMARY OF RECOMMENDATIONS

- OCB management and members of the BECC should continue to take definitive steps to improve collaboration for the benefit of the Oregon Randolph-Sheppard program. Such steps might include working with a dispute resolution, conciliation, or other professional communications consultant,
- A formal written communications protocol should be established between OCB management and BECC members to govern and document accurately and consistently the communication and resolution of issues and decisions.
- The OCB, with the active participation of the BECC, should develop and implement programmatic strategies to increase vendor earnings in the Oregon program. Combining low-earning locations into single operations, identifying new and stronger locations through targeted program marketing efforts, and effective recruiting of qualified, highly motivated blind entrepreneurs to enter the program are often effective approaches to achieving this end. The OCB and participating vendors in the program should consider these and similar steps to improve vendor earnings.
- OCB managers should review staffing needs and consider options to achieve appropriate staffing levels.
- OCB management, in consultation with the BECC, should expeditiously complete the revision of the program's policies and procedures. In accordance with RSA's rules, these new policies and procedures should be forwarded to RSA for review before they are implemented.
- Both BECC members and the management of the Oregon Commission for the Blind should work to evaluate and regulate the operation of the committee so that it plays a constructive and transparent role in the advancement of the state's Randolph-Sheppard program. This may involve OCB management taking measures to comply with providing materials in alternative formats, both parties honoring the letter and spirit of the state's public meetings law, and the BECC conducting business in a more open fashion, mindful of its obligation to afford its members, and vendors in Oregon generally, fair treatment in their interaction with the committee.
- The agency should make efforts to provide all policy documents and program regulations in accessible formats to vendors and to document the receipt and understanding of such materials, as appropriate, in the training records and personnel files of trainees,
- Since existing commission policies do not include details on personnel file management, the SLA should develop procedures and staff training for organizing and structuring vendor personnel records to include the required information previously referenced in this narrative. Further, the SLA should periodically audit these files to ensure proper documentation is present.
- The OCB, in collaboration with the BECC, should complete the redesign of the training curriculum and take steps to strengthen and implement a quality new vendor training program for

the Oregon Randolph-Sheppard program. Since this issue is deemed important, RSA will follow up with Oregon's SLA within six months of the issuance of the final report to inquire about the progress realized in relation to this recommended action.

- OCB management should institute a more robust inventory and accounting system for property and merchandise housed at each of its locations, including a policy that tags all equipment purchased with federal or state funds in accordance with federal and state requirements. A \$5,000 threshold value before requiring that an item be tagged invites too much potential for loss of federal or state-purchased property.

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