

**Review of Critical Randolph-Sheppard Non-Compliance  
Issues By the U.S. General Services Administration**

**A White Paper  
Prepared by  
The National Association of Blind Merchants**

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## **Introduction**

The National Association of Blind Merchants (NABM), a Division of the National Federation of the Blind, is a membership organization that represents the interests of blind entrepreneurs nationwide. Most of these blind entrepreneurs participate in the Randolph-Sheppard Program. NABM views its role to advocate on behalf of those Randolph-Sheppard blind entrepreneurs. In so doing, it also must serve as a watchdog to ensure compliance with the law by federal entities.

The General Services Administration is a major customer of the Randolph-Sheppard Program, second only to the United States Postal Service in the number of vending facilities operated by blind entrepreneurs. Historically, GSA and Randolph-Sheppard have enjoyed a mutually beneficial relationship. GSA is interested in making the best possible food services available to the occupants in federal buildings under its control, while the Randolph-Sheppard Program's goal is to provide entrepreneurial opportunities for blind persons. These missions have blended nicely, and both entities have for the most part achieved their objectives.

However, in recent years, a number of issues have developed that have strained the relationship at times. Some of the problems are systemic, and others are due to a change in philosophy and/or policy by GSA. Still others are simply beyond the control of GSA. Some of the issues are regional and specific to individual GSA field offices. The State Licensing Agencies (SLAs) and the Rehabilitation Services Administration (RSA) also bear some responsibility, as do the blind entrepreneurs themselves.

The purpose of this analysis is not to affix blame, but instead to identify existing problems so that a dialogue can begin that may result in solutions being identified and implemented. The role of the National Association of Blind Merchants in this process is to facilitate these solutions. NABM has enjoyed a positive working relationship with GSA's headquarters staff in Washington, D.C. Although this document sets out criticisms of GSA, it is intended to be constructive and to enable us to build on our relationship. GSA recently conducted a roundtable discussion with blind entrepreneurs who attended the NABM Critical Issues Conference in May of 2018. Some of these issues were discussed at that time. NABM hopes that this document will help advance those types of conversations.

## The Issues

The following is a brief analysis of the issues NABM has identified and as well as solutions to address the problems:

***Problems with Security Clearance*** – Strict security is an unfortunate necessity in today's world where there are so many threats to the safety of Americans. Most government buildings have implemented security measures for entry, and security/background checks are required of blind vendors and their employees as a requirement to work in a federal building. GSA is not responsible for conducting such background checks. The Office of Personnel Management (OPM) does them. It is our understanding that this responsibility is being transferred to the Department of Defense but we are not aware of any timetable.

On the surface, such background checks would seem harmless. After all, more and more SLAs are requiring background checks as a condition for entry into their programs. However, the practical impact can be devastating because of the time required for OPM to complete such background checks. It is not unusual for such checks to take months. In the meantime, the blind entrepreneur is without employment, and in some cases the federal employees are without food service. The problem is compounded by inconsistent application of the clearance procedures. In some cases, an interim clearance can be granted within a few days, and the blind entrepreneur is allowed to work in the building pending the outcome of the more comprehensive check. In other cases, they are required to complete the entire background check before being allowed access to the building. The problem is also made more difficult by the fact blind entrepreneurs can only apply for clearance after they have been awarded the location.

It has been suggested, with some merit, that some blind entrepreneurs who complete the applications contribute to the problem by not filling out the on-line forms correctly or doing so in a timely manner. There undoubtedly are times when blind entrepreneurs fail to correctly fill out the forms. It is our understanding that one problem is that the websites for the application and some of the training about how to fill out the form are inaccessible for blind users. In addition, it appears that the website where a \$25 payment must be made is also inaccessible. If true, these are all violations of federal law. We are working to correct this situation and would appreciate any help in making that happen.

The problem of onboarding is not limited to clearance for the blind entrepreneurs. The problems also arise when a blind entrepreneur is attempting to hire employees. Lengthy delays make it impossible in some cases to adequately staff a vending facility. In Chicago, a blind entrepreneur at the Metcalf Federal Building waited for seven months to hire an employee and only got clearance shortly before this paper was released. In most federal buildings, a visitor can be granted access provided someone who is badged escorts them. However, this is a

privilege denied many blind entrepreneurs who could easily serve as escorts while an employee is going through the clearance process.

We recognize that this problem can be as frustrating for GSA as it is for the SLAs and blind entrepreneurs.

***Recommendation #1 – GSA should solicit the help of RSA to work with the Office of Personnel Management and/or the Department of Defense to identify solutions to the problems of onboarding, including the granting of interim clearance pending a full background check.***

***Recommendation #2 – Licensed blind entrepreneurs should be allowed to apply for clearance even if not assigned to a vending facility on GSA property. Any vendor could be allowed to apply for such clearance, and having applied for the clearance could be a condition for bidding on a vacant vending facility.***

***Recommendation #3 – RSA and GSA should work with the Office of Personnel Management and/or the Department of Defense to ensure that all websites utilized through the clearance process are accessible to blind users.***

With regard to Recommendation #3, NABM's parent organization, the National Federation of the Blind has a great deal of expertise in the area of accessibility. NABM would be more than happy to connect the appropriate person(s) at OPM to the right individual at the NFB for assistance.

***Misapplication of the Term “Cafeteria” and Improper Competition from Cafeterias*** – Over time, some confusion has developed as to what constitutes a cafeteria and what these cafeterias can and cannot sell. We examine three aspects of this debate below.

***Overly broad application of the term “cafeteria” to vending facilities for which SLAs should receive permits*** - The best example of this problem was at the Edith Green Building in Portland, Oregon. GSA installed a grab-and-go sandwich shop and tried to argue it was a “New Age” cafeteria and refused to grant a permit to the SLA for a blind entrepreneur to operate it. The SLA filed for arbitration and won, and today a blind entrepreneur operates the facility.

Under the Randolph-Sheppard regulations, a cafeteria is defined as a dining facility that serves a broad variety of prepared food (including hot meals) and beverages, primarily through a serving line where the customer serves himself, and that provides diners with tables or booth seating. See 34 C.F.R. 395.1(d). This definition is very prescriptive in terms of what must be present for the vending facility to be a cafeteria eligible for a contract rather than a non-cafeteria dining facility, for which a permit must be issued to the

SLA. Very few operations on federal properties currently classified as cafeterias meet this strict definition. In applying the definition, one must ask:

1. Does the facility provide a broad variety of prepared foods?
2. Does the facility provide hot meals?
3. Does the operation utilize a serving line where the customer serves himself from displayed selections?
4. Does the facility include tables and/or booths for customer seating?

All four of the above must be present for a dining facility to be classified as a cafeteria. Any facility that does not meet the definition of “cafeteria” by law should be awarded to the SLA via a permit.

If a customer walks up to a counter (even if (s)he must stand in line to do so) and orders a custom-made sandwich, bowl of soup, or any other item not displayed, the third criteria above is not met. The food was neither on display nor did the customer serve himself.

**Unfair competition from a competing cafeteria constitutes a limitation on the operation of a vending facility by a Randolph-Sheppard blind vendor** – The best example of unfair competition from cafeterias selling prepackaged foods might be the Tip O’Neill Federal Building in Boston. That cafeteria devotes as much of its square footage to prepackaged and grab-and-go items as it does hot food. This constitutes unfair competition not envisioned by Congress. Such competition constitutes a limitation on the blind entrepreneur’s operation, which is prohibited by 34 C.F.R. 395.30(b) unless the Secretary of Education has made a determination that such a limitation is necessary to protect the interests of the United States.

If there is a Randolph-Sheppard entrepreneur on-site, that individual should be allowed to operate free from competition by a cafeteria selling like products. The Randolph-Sheppard Act was enacted by Congress to enlarge economic opportunities for the blind and to stimulate the individual blind entrepreneurs to greater independence. That charge from Congress is undermined if there is direct competition. GSA’s options are twofold: It should either (1) ensure through the solicitation process that cafeterias will not sell items that directly compete with blind entrepreneurs, or (2) if it believes that eliminating such competition is adverse to the interests of the United States, it must submit a fully justified request to the Secretary of Education and obtain approval prior to allowing the competition

Common sense should prevail, and middle ground can be found. For instance, allow cafeterias to sell fountain drinks and let the blind entrepreneur sell the

bottled and canned beverages. Allow a cafeteria to sell chips with a sandwich and place them on a plate and let the blind entrepreneurs sell the bags of chips. Allow the cafeteria to sell fresh baked pastries and let the blind entrepreneur sell the honey buns and other prepackaged pastries. Finally, allow cafeterias to sell fresh-baked cakes and pies for desserts and let the blind vendor sell candy.

The unfair competition is not limited to prepackaged foods being sold within the confines of the cafeteria walls. There are at least a few instances where cafeterias have expanded their offerings to kiosks or carts in other parts of the building. Although many of the products sold are prepared in the cafeteria, these cart services are essentially stand-alone units, meet the definition of “vending facility” found at 34 C.F.R. 395.1(x), and unfairly compete with the blind entrepreneurs. The U.S. Department of Transportation Building at 1200 New Jersey Avenue SE in Washington, D.C. is a prime example of this happening. Priority for such a cart service should be granted to the SLA. In this case, the facility being operated by the blind entrepreneur would be unable to handle the cart service if it meant providing freshly prepared items. The issue of blind entrepreneurs being provided inadequate facilities is discussed later in this document. However, at this point we will only say GSA has a responsibility to ensure the blind entrepreneur has facilities adequate enough to provide the desired services and to enlarge his/her economic opportunities.

We acknowledge that SLAs and blind entrepreneurs share some responsibility for the evolution of this problem. NABM believes that the best way to eliminate unfair competition from cafeterias is for SLAs to bid on them when solicitations are announced. Let the blind entrepreneur operate the vending machines, counter stand, and cafeteria. Utilize a teaming partner if necessary. Having said that, many blind entrepreneurs do not want to manage cafeterias due to the workload and low profit margins, and sometimes property managers are unrealistic about whether a building will support a cafeteria. Therefore, SLAs do not bid, opting to only operate the vending machines and/or an inadequately equipped dry stand. Private cafeterias face the same pressures in terms of low profitability and look to prepackaged items to help bolster sales and profits. This sometimes comes at the expense of the blind entrepreneurs. Unfortunately, there have been too many instances where blind entrepreneurs provided inferior service, which has led to some reluctance on the part of GSA to utilize the permit process when hot food is involved. SLAs and blind entrepreneurs must ensure that only the highest quality service is provided at any Randolph-Sheppard vending facility.

***Micromarkets Are Not Cafeterias*** - Micromarkets are self-service, unmanned vending facilities where the customer selects a packaged item to be purchased and uses a kiosk to check himself out. It is the fastest growing

part of the vending industry today and many vending companies are replacing vending machines with micromarkets and installing micromarkets instead of vending machines in new locations. Many SLAs have embraced the micromarket concept as a way to enhance offerings and boost sales / profits.

When SLA's started installing micromarkets, the question was asked "How is the Randolph-Sheppard priority applied to micromarkets." The answer is a micromarket is a vending facility as defined at 34 C.F.R. 395.1(x). Earlier we referenced the arbitration involving the Edith Green Federal Building in Portland, Oregon. During his testimony before the arbitration panel, the GSA Concessions Specialist testified that a micromarket is a cafeteria and not subject the permitting process. This prompted NABM to reach out to GSA Headquarters for clarification of GSA's position. In an email dated August 27, 2015, Melissa Walker, Wellness Amenity Program Manager with GSA, wrote,

*"GSA's policy is that Randolph-Sheppard has priority to service levels 1-6, which is everything but a full scale cafeteria, which is handled through competitive bids. Micro-markets are not cafeterias so the RS priority would apply."*

Although there is nothing in writing, RSA has indicated at various meetings that it shares this view.

With the status of micromarkets and the Randolph-Sheppard priority clarified, the question becomes "Can a micromarket be managed by a private purveyor as an enhancement to the cafeteria service it manages in a building?" GSA recently modified its contract with the cafeteria purveyor at the Lyndon B. Johnson Building in Washington, D.C. This building ironically houses the U.S. Department of Education, which has responsibility for administering the Randolph-Sheppard Act. The contract was modified to allow the cafeteria operator to operate a micromarket. The cafeteria is open during set hours, and the micromarket is open 24/7 and directly competes with vending machines there under the Randolph-Sheppard priority. We have established that a micromarket is not a cafeteria, but is a vending facility as defined at 34 C.F.R. 395.1(x). A micromarket should be awarded to the SLA under a permit, but GSA refuses, arguing it is a contract revision and not a new location. RSA reportedly attempted to weigh in on behalf of the SLA; however, GSA ignored the opinion of the federal department charged with the responsibility of interpreting the Randolph-Sheppard Act. Consequently, the case will go to federal arbitration. Cafeteria purveyors should not be allowed to operate micromarkets any more than they are allowed to service vending machines as a way to supplement the cafeteria. GSA can have a micromarket at the LBJ Building; however, it should be first offered to the SLA under a permit. The LBJ Building situation puts the SLA in the unenviable position of possibly filing for arbitration to resolve a dispute

in the very building that houses the Department of Education, which is responsible for administering and interpreting the Randolph-Sheppard Act.

***Recommendation #4 – GSA should ensure that only operations that meet the strict definition of “cafeteria” are bid out rather than being awarded to an SLA via permit. It must clarify, as a matter of policy that micromarkets are not cafeterias and are subject to a permit as opposed to a contract.***

***Recommendation #5 – GSA should clarify that cafeterias are not to compete with blind entrepreneurs in selling prepackaged items. GSA should create a working group that includes the National Council of State Agencies for the Blind and NABM to develop such a policy.***

***Recommendation #6 – GSA and each SLA should conduct on-site evaluations of each cafeteria to ensure that the services being provided are consistent with the requirements under the Randolph-Sheppard Act and ascertain whether the nature of the facility has changed so that it is no longer a cafeteria. This evaluation should include a determination of whether the cafeteria is competing in any significant way with the blind entrepreneur by selling large quantities of prepackaged foods.***

***Recommendation #7 - There appears to be a disconnect between GSA leadership and the concessions personnel in the field. Training for all regional staff is recommended. NABM is happy to assist with such training.***

***Recommendation #8 – In the absence of the above, NABM recommends that SLAs aggressively pursue arbitration in those cases where the priority is not afforded and/or there is unfair competition from cafeterias.***

***Recommendation #9 – SLAs must implement and consistently enforce standards of performance and policies and procedures that ensure high quality service is provided at all times.***

***GSA’s Failure to Provide Adequate Utilities*** – 34 C.F.R. 395.31 requires each federal entity to provide a “satisfactory site” for a vending facility to be operated by a blind entrepreneur in any building being built, leased, or renovated. 34 C.F.R. 395.1(q)(2) defines “satisfactory site.” A satisfactory site must include “sufficient electrical plumbing, heating, and ventilation outlets for the location and operation of a vending facility in accordance with applicable health laws and building codes.” Although this language is clear, the reality is that GSA and many other federal entities are out of compliance in many locations. The law requires adequate plumbing; however, many vending facilities operated by blind entrepreneurs do not have running water. GSA must provide adequate electricity, heating, and a vent



system as well. Unfortunately, this issue is closely related to the issue above related to unfair competition from cafeterias. It appears that GSA is more interested in promoting and protecting the corporate cafeteria providers than it is the blind entrepreneurs, sometimes siding with a multi-billion-dollar company rather than protecting the rights of blind entrepreneurs. One only needs to visit either of the federal buildings in Boston to see this practice at work. A private company operates a large, modern cafeteria that sells hot food but also sells as many or more prepackaged items as the blind entrepreneur. They are impressive operations and appear to be very busy. In contrast, down the hallway in one building and upstairs in the other, a blind entrepreneur sits on a stool behind a counter with few customers. They have no running water. They can't even sell coffee. They do not have electrical outlets or ventilation to offer additional prepared items. Their ability to earn a living is limited.

The Randolph-Sheppard Act is intended to "enlarge the economic opportunities of the blind," 20 U.S.C. § 107(a), and it prohibits federal entities from imposing "any limitation on the placement or operation of a vending facility" on federal properties. *Id.* § 107(b); see also 34 C.F.R. 395.30(b). By limiting blind entrepreneurs' ability to earn a living, GSA violates those provisions.

***Recommendation #10 – GSA and the SLAs should jointly evaluate each vending facility that includes a counter operation to determine whether they contain adequate electrical, plumbing, and ventilation and to take corrective action if they do not.***

***Recommendation #11 – If #10 above is not followed, NABM recommends that SLAs aggressively pursue federal arbitration to correct the problems.***

***Who Determines the Location and Type of Facility?*** – 34 C.F.R. 395.3(c) grants to the SLA the right to determine, with the approval of the federal entity, the location and type of vending facility. Historically, GSA and the SLA were able to mutually make such determinations. However, in several recent instances, the GSA official has unilaterally made such decisions, stating in one case the only option being made available to the SLA is a micromarket and then in another stating that no micromarket will be permitted. In neither case did the SLA's wishes factor into the decision. It was "my way or the highway." The SLA should make the initial determination as to location and type of facility. Property management can either approve or deny the SLA's request. If it denies the request, the denial must be in writing, and if it constitutes a limitation on the operation of the vending facility, GSA must submit a request to the Secretary of Education justifying in writing why the SLA's request is adverse to the interests of the United States.

We have stated what the law requires. In reality, there is a simpler approach. Both sides should attempt to negotiate and arrive at a compromise. There may have to be

give and take. However, under no circumstances should any federal entity dictate the location and type of vending facility.

***Recommendation #12 – GSA must clarify to its field staff the requirement that the SLA is to determine the location and type of vending facility, followed by GSA’s approval, while encouraging cooperation.***

***Failure to Provide Adequate Space*** – This issue is certainly not unique to GSA. In fact, GSA is probably not the primary abuser. There are more problems with the Department of Veterans Affairs. However, it should be mentioned in reference to this document, as there are instances where GSA has failed to provide adequate space for a vending facility. This issue is closely related to the two previous issues. In some cases, GSA may have made less space available if running water was not provided because the facility was limited in terms of what it can offer and not as much space was needed. Likewise, GSA may have unilaterally made a determination as to the type of service it would allow and, provided less space than desired by the SLA. Neither practice is acceptable.

34 C.F.R. 395.31(a) mandates that any new, leased, or renovated building must contain a “satisfactory site” for a vending facility to be operated by a blind entrepreneur. “Satisfactory site” is defined at 34 C.F.R. 395.1(1)(q) and requires a federal entity to provide a minimum of 250 square feet for a vending facility to be operated by the Blind. Some may interpret that to mean the federal entity has fulfilled its responsibility if it provides 250 square feet of space to the SLA. This is not accurate. The federal entity must provide enough space to accommodate the type operation required by the building based upon potential patronage. We must not lose sight of the fact the purpose of the Randolph-Sheppard Act is to “enlarge economic opportunities” for blind persons. Everything else is secondary to that charge by Congress. The federal entity must provide sufficient space to ensure that this objective is achieved. As discussed earlier, a federal entity cannot allot 250 square feet for a vending facility and then carve out 2,500 square feet for a full-scale cafeteria to be competitively bid.

GSA historically has recognized its obligation. It understands that the number of people in a building dictates the level of service and the level of service dictates the square footage to be allocated. For example, GSA guidelines state that a building with 900 employees should have 1,620 square feet for a Level 3 prepackaged snack bar or 2,430 if there is limited on-site food prep. These guidelines are appropriate and accommodate most Randolph-Sheppard facilities. However, there are occasions when GSA does not adhere to its own guidelines. For example, the Voice of America Building in Washington, D.C. housed over 900 employees and the SLA requested enough space to do a limited on-site food prep micromarket, which would be a Level 4 according to GSA guidelines. However, GSA denied the request and only offered 750 square feet for a Level 3 facility. The result is a lower quality service for patrons of the facility and less income for the blind entrepreneur. GSA is also arbitrarily placing a limitation on the operation of the facility, which as discussed

previously, violates the Randolph-Sheppard Act unless the Secretary of Education has determined that such limitation is in the best interest of the United States.

NABM recognizes that the guidelines referenced above are simply that – guidelines. They are not law nor are they regulations. However, they have served GSA and Randolph-Sheppard well over the years and in the spirit of cooperation should remain a guide to how space will be allocated for Randolph-Sheppard.

***Recommendation #13 – GSA should create a work group that includes NABM and the National Council of State Agencies for the Blind to review and update the guidelines and to ensure compliance to the amended guidelines in the future.***

***Who Pays for the Build Out of Vending Facilities?*** – SLAs are being hit with a double whammy on this one. Lately, GSA has taken the position that its only obligation to the SLA is to provide a blank space with 2x4's and access to plumbing and electrical. To be fair, GSA has not communicated such a policy change in writing. An SLA is only being told of the change that is allegedly coming down from Headquarters. In a recent case, GSA maintained that it was up to the SLA to install sheetrock, flooring, ceilings, lighting, etc. This position is inconsistent with previous guidance provided by GSA. Based on recent developments, GSA's position may be softening somewhat on this issue. If fully executed, such policy would mean the end of Randolph-Sheppard vending facilities on GSA properties. SLAs do not have the money to do this work. The matter is complicated by the fact RSA is now moving toward the position that federal VR dollars cannot be spent on such things as sheetrock, floors, ceilings, and lighting. With no funds with which to do the build out, SLAs will be faced with being denied the opportunity to establish new vending facilities or renovate existing facilities. Blind vendors will be denied the opportunities guaranteed to them by Congress, and many federal employees will be denied food service. This is a case of "if it ain't broke don't fix it." GSA should continue its longstanding practice of providing SLAs with a "white box" that includes walls, floors, ceilings, electricity, plumbing, and ventilation. SLAs should use their resources, including VR dollars, to provide equipment and any necessary modifications to the space (not involving loadbearing walls) to accommodate the type of facility that will enable the blind entrepreneur to maximize his or her vocational potential as required under the law. The Act requires GSA to provide a "satisfactory site." It is not a satisfactory site if it doesn't have walls, floors, lighting, electricity, plumbing, and ventilation.

***Recommendation #14 – GSA and RSA need to consult on this matter, and both need to continue the past practice of GSA doing the build-out and SLAs having access to federal VR dollars to do major renovations.***

***Recommendation #15 – If GSA refuses to provide walls, flooring, lighting, electricity, plumbing, and ventilation at a given site, SLAs should aggressively file for federal arbitration to remedy the situation.***

***Food Trucks are Vending Facilities*** – As food trucks have grown in popularity, they have assumed a greater presence on some federal properties. How does the Randolph-Sheppard Act apply to these food trucks? In the opinion of NABM, a food truck falls under the definition of a “vending facility.” Therefore, the priority applies ***IF*** the food truck will be parked on federal property. Trucks parked on public streets are another matter obviously since GSA has no control on the streets.

So, how should GSA or any federal entity approach the issue of food trucks on federal property? The process is very similar to what would occur if a federal entity wanted a vending machine installed somewhere. They should contact the SLA, explain the need, and offer the opportunity to a blind entrepreneur. The SLA must first determine the viability of a food truck taking into consideration multiple factors including profitability, impact on current blind entrepreneur(s), etc. If it determines that a food truck is viable, the SLA may:

1. Purchase or lease a food truck to be operated by a blind entrepreneur; or,
2. Assist the blind entrepreneur in finding a food truck company that is willing to come on-site and pay the blind entrepreneur(s) a commission.

NABM has encouraged SLA’s to be aggressive in purchasing food trucks for blind entrepreneurs. They offer great income potential both on federal properties and nongovernmental properties. A truck could be parked on a large federal complex at lunch and be at a concert or popular outdoor area that evening. Despite the obvious income potential, SLAs have been slow to embrace the concept. As this document is published, a few states are known to have purchased small trailers for specific uses but none has purchased a food truck. In some cases, state procurement practices make it impossible and in others is the fear of trying something different. If purchasing a food truck is not an option, then the SLA should facilitate securing a third party who will provide the truck and pay the blind entrepreneur a commission. It should be stressed that any agreement should be between the blind entrepreneur and the third party so the entrepreneur should take the lead in securing the services with the support and facilitation of the SLA.

What happens if the SLA turns down the opportunity? GSA should be allowed to arrange for the service itself.

***Recommendation #16 – GSA should clarify with all field offices that the priority applies to food trucks and direct staff to ensure that food trucks are not allowed on federal property without the SLA being offered the first right of refusal.***

***Recommendation #17 – Each individual SLA should develop a plan on how to best provide food truck services in a way that is most beneficial to the blind entrepreneur(s).***

***Employee Stores Create Unfair Competition*** – It is not unusual for an individual employee or group of employees to set up employee stores and sell the very same items sold by the blind entrepreneur on-site. It may be an innovative employee putting his business instincts to work or it may be an employee group raising dollars for a flower fund, Christmas party fund, or some other collective purpose. In most of these cases, product is made available in a break room on a table or in a cooler. They are on the honor system and the purchaser places his/her money into some sort of container. What did we just describe? The answer is a micromarket and, as was noted earlier, micromarkets fall within the definition of a vending facility and the blind entrepreneur should be protected from unlawful competition. The most recent example to come to our attention was at the Goodfellow Complex in St. Louis, Missouri where SSA employees were running such an operation.

Closely related to employee stores are those instances when employees invite other food providers into the building. Sometimes, it is done as a fundraiser and in others just to change up the food choices. The most blatant example of this was at the building housing NARA on Archive Road in St. Louis. Occupants in the building have arranged for both food trucks to be in the parking lot and/or food service establishments setting up in the employee break room which is right next to the Randolph-Sheppard vending facility. The blind entrepreneur's sales and profits are significantly impacted. This situation is especially troubling since all of the blind entrepreneur's must have security clearance to be on-site but none of the restaurant workers have to meet the same requirements. We have already addressed the problems with security above.

***Recommendation #18 - GSA should follow on the two cases in Missouri identified above and ensure compliance with the Randolph-Sheppard Act.***

***Recommendation #19 - GSA should ensure that all field staff understand the law and know to take corrective actions.***

***What About Office Coffee Services*** – This isn't so much of a compliance issue but needs to be mentioned. Office copy services are very popular in the corporate world. A company provides the necessary equipment and sells the coffee to the employees. The employees may pay for individual cups of coffee on the honor system much like we described with the employee stores above. Why are Randolph-Sheppard entrepreneurs not providing similar service in federal buildings? The service should be attractive to GSA because it eliminates the need for individual coffee pots and minimizes fire risks while reducing energy consumption. It should be attractive to SLAs because it means more money in the pockets of blind entrepreneurs.

***Recommendation #20 - SLA's should get more aggressive in developing this segment of the industry for blind entrepreneurs.***

**Licensing / Leasing** –With an excess of inventory, GSA sometimes leases out space to private entities through a process it calls licensing. There is no prohibition to this practice and the ability of do is clearly in the best interest of the government and the taxpayers. However, there have been instances whereby GSA licensed a private entity to provide food services. This is clearly a violation of the Randolph-Sheppard Act unless the SLA has been afforded the first right of refusal and the private entity is not competing with a blind entrepreneur on-site.

**Recommendation #21- GSA should ensure that the licensing practice is not utilized in a way that violates the Randolph-Sheppard priority.**

**The New GSA Permit Template is Flawed** – GSA recently developed a new template for its Randolph-Sheppard permits. The template was developed with no input from RSA, the SLAs, or the blind entrepreneur community. Consequently, there are problems with the proposed new permits. Some GSA field personnel are telling SLAs the permits are nonnegotiable which is in conflict with what staff in GSA Headquarters is saying. The current template is especially problematic since it contains questionable and even illegal provisions. NABM has prepared a complete analysis of the new permit and has shared that with both GSA and RSA as well as the SLAs. Among the more serious concerns is language that requires the blind entrepreneur to hire an on-site manager. The healthy vending requirements that are only guidelines are being made mandatory and the misapplication of the calorie disclosure laws.

**Recommendation #22 – GSA should immediately discontinue use of the template until the problems can be corrected. GSA should call together a work group that includes NCSAB, and NABM to review and modify the template. The template should then be submitted to RSA to ensure that permits re Randolph-Sheppard compliant.**

**Communication Between GSA and the Randolph-Sheppard Community** – Earlier it was noted that there appears to be a disconnect between GSA Headquarters and its field offices. Communication with the SLAs and the blind entrepreneur community could be enhanced. NABM acknowledges and appreciates GSA’s willingness to meet with NABM on several occasions. Denise Funkhouser and Demetria Summers have always been open to meeting and discuss issues. Most recently, Ms. Summers participated in a Federal Department Roundtable with blind entrepreneurs and SLA staff at NABM’s Critical Issues Conference in May, 2018. There was some excellent dialogue. However, we need to build on that.

**Recommendation #23 – GSA should make every effort to participate in NABM’s BLAST (Business Leadership and Superior Training) November 13-16 in San Antonio.**

## **Conclusion**

In conclusion, NABM considers GSA to be a partner and we recognize GSA's difficult job in managing so many federal properties. We also concede that it may seem unfair to take what some may perceive as a critical approach to GSA when other federal entities such as the Departments of Veterans Affairs and Defense place such little emphasis on Randolph-Sheppard compliance. There are issues with other federal agencies as well. However, GSA is the federal government's real estate managing entity. It has more federal properties under its control than any other federal agency with the possible exception of the U.S. Postal Service. GSA is in position to have a greater impact.

Many SLAs have a great relationship with GSA. Others may have experienced one or two of the issues identified but are generally satisfied. However, some can relate to almost every issue identified. As noted earlier, there appears to be a disconnect between GSA Headquarters and the field offices. There appears to be a decentralized approach that contributes to the problems we have identified. NABM believes that training and communication are the keys to addressing the issues in this document. We welcome the opportunity to continue our ongoing dialogue and to assist in training or in any other way we can. The goals have not changed: quality food service and opportunities for blind entrepreneurs. Both are achievable if all parties work collaboratively in a good faith effort to find real solutions. To that end, NABM would like to create a work group to meet regularly to discuss and resolve these issues. The work group should involve leaders from GSA, RSA, NCSAB, and NABM. We look forward to continuing to work with GSA and provide high quality food to tenants of GSA buildings around the country.