

Amendment

OMB Control No. 1820-0698
Exp. Date: 08-31-2021

REHABILITATION SERVICES ADMINISTRATION
Randolph-Sheppard Financial Relief and Restoration Payments (FRRP) Appropriation
ASSURANCES and USE of FRRP FUNDS

Tennessee Department of Human Services (SLA):
DUNS:

A. Assurances

The State licensing agency (SLA), responsible for administering the Randolph-Sheppard Act program in the State, assures it will (check if yes):

- (1) cooperate with the Secretary in applying the requirements of the Randolph-Sheppard Act in a uniform manner when administering the FRRP, pursuant to 34 C.F.R. § 395.3(a)(11)(i), and will comply with all applicable Federal statutory and regulatory requirements for Federal recipients, as well as the terms and conditions of the grant award;
- (2) use all funds received under the FRRP in accordance with the terms of the Consolidated Appropriations Act of 2021, PL 116-260, Division H, Title III, section 318, specifically for the purposes of:
- offsetting losses of blind vendors that occurred during calendar year 2020, to the extent that such losses were not otherwise compensated; and
 - other purposes authorized under 34 C.F.R. § 395.9 for set-aside funds, but only to the extent any funds remain available after offsetting losses that were incurred by blind vendors during calendar year 2020.
- (3) actively participate with the State Elected Committee of Blind Vendors in developing for RSA approval how it will use the FRRP funds, consistent with the information required by Part B of this document, pursuant to 34 C.F.R. §§ 395.3(a)(2), 395.3(a)(6), 395.3(a)(11)(iii), 395.4(a), and 395.14, and Technical Assistance Circular RSA-TAC-21-01. The SLA understands that this information in Part B is required since receipt and use of the FRRP funds represent a change in the SLA's procedures covering the operation of vending facilities in accordance with Federal laws and its sources of funds for the administration of the program;
- (4) expend all FRRP funds, including for administrative purposes, in a manner that is allowable, reasonable, and allocable as required by 2 C.F.R. §§ 200.403 through 200.405;
- (5) not use Vocational Rehabilitation (VR) program funds, either Federal or non-Federal, to cover the administration of the FRRP funds unless such costs are also allowable under the VR program in accordance with section 103(b)(1) of the Rehabilitation Act of 1973 (Rehabilitation Act) and 34 C.F.R. § 361.49(a)(5) (*i.e.*, "financial relief and restoration payments to offset losses of blind vendors that occurred during calendar year 2020" are

not allowable expenses under the VR program), and allocable to that program in accordance with the Federal cost principles at 2 C.F.R. §§ 200.403 through 200.405. In the unusual event an activity under the FRRP funds is also authorized under the VR program and the SLA wants to use VR program funds, either Federal or non-Federal, to pay the administrative costs, the SLA assures it will allocate those costs proportionately across all benefitting programs in accordance with 2 C.F.R. §§ 200.403 through 200.405;

X (6) not use expenditures paid with these FRRP funds to meet the non-Federal share of the VR program, because these are Federal – not non-Federal – funds; and

X (7) satisfy all applicable requirements under the Randolph-Sheppard Vending Facility Program, including those set forth at 34 C.F.R. § 395.3(a)(11) (viii) and (ix), as well as those of 2 C.F.R. part 200, including those governing internal controls (§ 200.302), financial management (§ 200.303), financial reporting (§ 200.328), performance reporting and monitoring (§ 200.329), and grant closeout (§ 200.344).

B. Use of FRRP Funds

1. Explain briefly how the SLA will distribute the FRRP funds to blind vendors to offset losses incurred during the 2020 calendar year (*e.g.*, proportional to losses incurred, based on losses due to vendor’s spoiled or expired stock, etc.).

The State Licensing Agency (SLA) will distribute the FRRP funds proportional to losses incurred compared to the prior calendar year to assure an equitable distribution that also provides the most support to those most impacted. Pursuant to Tenn. Comp. R. & Regs. , [1240-06-09-.03](#) each Blind Vendor is required to submit a monthly financial statement to the SLA that summarizes sales, expenses, and profits. Through active participation, the SLA and Committee of Blind Vendors have completed a comparison of the year-end profit reported by each Blind Vendor for both calendar year 2019 and calendar year 2020. The 2020 calendar year total profits were then subtracted from the 2019 calendar year profits to determine if there was a loss in calendar year 2020 and, if so, the exact amount of that loss.

Blind Vendors will be reimbursed for an amount that provides financial relief assistance to eligible Blind Vendors until they achieve a specified percentage of their 2019 income that was calculated to maximize available FRRP funds made available to Tennessee for direct relief to Blind Vendors. The exact percentage was determined by the amount of dollars allocated to Tennessee. Many Tennessee Blind Vendors did not experience losses because they operate inmate jail commissaries and were not significantly impacted by the pandemic.

To help the most impacted and assure equitable distribution, the vendor population was divided into 2 tiers.

Tier 1 - Vendors who reported a profit of \$40,000 or less in 2019 will be provided relief distribution funds equal to 91.228% of their net profit in 2019.

For example, a Blind Vendor who reported a profit of \$40,000 in 2019 but only \$10,000 in 2020 will receive a distribution of

\$25,396 which represents 91.228% of their \$30,000 reported loss when added to their reported 2020 net profit of \$10,000 restoring the Blind Vendor to 91.228% of their 2019 net profit of \$40,000.

Tier 2 - Vendors who reported a profit of more than \$40,000 in 2019 will be provided relief distribution funds equal to 71.58% of their net profit in 2019.

For example, a Blind Vendor who reported a profit of \$100,000 in 2019 but only \$40,000 in 2020 will receive a distribution of \$29,000 which represents 71.58% of their \$60,000 reported loss when added to their reported 2020 net profit of \$40,000 restoring the Blind Vendor to 71.58% of their 2019 net profit of \$100,000.

Under no circumstances will a Blind Vendor receive more in FRRP funds than their calculated losses.

2. Does the SLA anticipate using any of the FRRP funds to cover administrative costs?
 Yes No
3. If yes, what percentage of the FRRP funds do you anticipate expending on administrative costs? N/A
4. How will the SLA ensure blind vendor losses were not previously compensated (*e.g.*, attestation, financial reports, inventory reports, documentation of losses due to spoilage, etc.)?

By comparing 2019 and 2020 actual profit data, the SLA can assure that no Blind Vendor will receive more in FRRP funds than they lost. The SLA, with the active participation of the Committee of Blind Vendors, has elected not to count PPP loans, unemployment, or other sources of income not under the purview of RSA when determining losses that are eligible for FRRP relief. Most Blind Vendors, after factoring in 2020 profits, are only being compensated for approximately 50% of their actual total financial losses. In the example above, the Vendor who earned \$100,000 in 2019 and \$40,000 in 2020, will receive \$29,000 which is only 48.3% of the total lost income which would be \$60,000. Blind Vendors who pursued these other funding sources may use those funds to offset losses not considered by the SLA and Committee in this plan. The SLA provided no funds in the way of fair minimum return, vacation pay, or sick pay to consider when determining whether or not losses were otherwise compensated.

5. Does the SLA anticipate having any FRRP funds remaining after distributing funds to the blind vendors to cover losses incurred in calendar year 2020? Yes No
6. If yes, please identify for which authorized set aside purposes under 34 C.F.R. § 395.9 the SLA anticipates using the funds (check all that apply):

<input type="checkbox"/> purchase of equipment	<input type="checkbox"/> fair minimum return to vendors
<input type="checkbox"/> maintenance of equipment	<input type="checkbox"/> establishment and maintenance of
<input type="checkbox"/> management services	retirement or pension funds*
<input type="checkbox"/> paid sick leave*	<input type="checkbox"/> health insurance contributions*

_____ paid vacation time*

*Use of funds for these purposes would also require a majority vote of the blind vendors licensed by the SLA in accordance with 34 C.F.R. § 395.9(b)(5).

7. Explain briefly how the SLA actively participated with the State's Elected Committee of Blind Vendors to develop the Use of FRRP funds under Part B of this document and the result of their active participation (*e.g.*, was there consensus on the use of the funds). Documentation, such as meeting minutes when the use of FRRP funds was discussed, must be available upon request.

The SLA provided financial information to the Committee that listed net incomes of all Blind Vendors in both 2019 and 2020. The information did not include the names of any of the Blind Vendors to protect against any bias. The Committee designed the method for distributing the funds. The Committee then presented its plan to the SLA which was ultimately accepted with only minor changes. This participation occurred over the course of several virtual meetings between the SLA and Committee. These meetings were characterized by open dialogue, information sharing, and good faith negotiations. After considering all of the financial data presented, the Committee voted unanimously in support of the plan. Attached to this application is a statement from Billy Brumlow, Chair of the Elected Committee of Blind Vendors, certifying the Committee's active participation.

8. Please identify the date by which the SLA anticipates obligating all FRRP funds, making sure all funds will be obligated by September 30, 2022.

The SLA intends to expend all funds by September 30, 2022.

C. Certification

As a duly authorized representative of the applicant, I hereby certify that the applicant will comply with the Assurances in Part A. I also attest that the information provided in Part B regarding the Use of FRRP Funds is true and accurate.

Printed name and title of authorized representative: Kevin R Wright

Signature: _____

Date: 8/24/2021

Paperwork Burden Statement: According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1820-0698. Public reporting burden for this collection of information is estimated to average 1 hour per response, including time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. The Department is requiring States to respond to this collection to obtain or retain

benefit pursuant to 34 C.F.R. §§ 395.3, 395.4(a), and 395.14, and consistent with the requirement of 2 C.F.R. § 200.207. If you have any comments concerning the accuracy of the time estimate, suggestions for improving this information collection, or if you have comments or concerns regarding your individual form, application, or survey, please contact Jesse Hartle, U.S. Department of Education, 550 12th Street, SW, Washington, DC 20202-5176, Jesse.Hartle@ed.gov, directly. Note: Please do not return the completed form to this address.

This form should be emailed to: randolph-sheppardvprestationfunds@ed.gov.