

DEPARTMENT OF REHABILITATION

Its Delay in Correcting Known Weaknesses Has Limited the Success of the Business Enterprise Program for the Blind

Audit Highlights . . .

Our review of the Department of Rehabilitation's (department) administration of the Business Enterprise Program for the Blind (program) reveals that:

- Program participants' (operators) average net income has increased, but 30 percent of them still earned less than the minimum wage in fiscal year 2000–01.*
- In May 2002 the department completed its first strategic plan for the program; however, the plan lacks defined outcomes and performance measures.*
- Although the department has been working for more than seven years to update its regulations, it has yet to do so.*
- The department has not ensured that partnerships between operators and private food-service businesses are consistent with federal law and pay their fair share of program costs.*

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Department of Rehabilitation's response as of September 2003

The California Welfare and Institutions Code, Section 19640.5, requires the Bureau of State Audits to conduct a fiscal audit of the Business Enterprise Program for the Blind (program) every third fiscal year until January 2002 and a programmatic review every five years until January 2003. This programmatic review is the last of the series of reviews required by the statute. The program trains qualified blind persons to operate their own food-service businesses and provides them with food service facilities located in government buildings throughout the State. Specifically, we found:

Finding #1: The department only recently provided strategic direction to its staff and participants.

In May 2002, in conjunction with the California Vendor's Policy Committee, the Department of Rehabilitation (department) issued its first strategic plan for the program. The department's previous lack of action to establish strategic priorities for the program, identify expected outcomes, or offer methods to measure improvement hampered the program's ability to fulfill its mission and to address deficiencies in its operations that various audits identified as early as 1991. The plan does not reflect decisions regarding the prioritization of scarce resources, show which areas the department believes the program needs to improve the most, or provide any mechanism for the program to use to determine what level of resources to expend to attain planned objectives. Moreover, the current plan does not identify expected outcomes or offer performance measures or benchmarks. Consequently, the department might dedicate resources to an area but never be able to determine if the program has reached—or is moving toward—a stated goal.

- ☑ *Since August 1998 the program has not actively pursued the collection of past-due vending machine commissions from private companies.*
 - ☑ *The program does not adequately monitor operators or provide them with all required consulting services.*
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We recommended that the department, in consultation with the California Vendor's Policy Committee, should revise the program's strategic plan to include expected outcomes and performance measures so the department can evaluate the program's success and measure its progress in achieving strategic goals and improving noted deficiencies.

Department Action: Corrective action taken.

In its September 2003 response to our audit, the department reported that in consultation with the California Vendor's Policy Committee, it revised the program's strategic plan to include expected outcomes and performance measures.

Finding #2: The department has not updated its guidelines for administration of the program.

The department lacks guidance the program needs for sound administration. The program has neither updated its regulations nor provided updated policies for program administration to its staff. The lack of clear guidance may lead to disparate service delivery and compromise the program's success. State law and regulations require that every three years the department review and consider updating its regulations for the administration of the program. However, the department has been working for at least seven years to update the regulations. Because of this delay and the program's reliance on a 1994 policy and procedures manual that is outdated in some areas and provides insufficient guidance in others, the program has lacked clear guidelines on how it should operate. The program has not provided sufficient guidelines in its purchase of equipment and establishment of private partnerships. As a result, the department cannot ensure that the purchase of equipment is consistent among locations and that its private partnerships conform to federal law and its own mission statement. The department attributes its delay in updating its regulations on staff vacancies and on the magnitude and importance of the task; however, we found the department's reasons for not being able to establish guidelines to be unfounded. The department is currently developing a new draft of the proposed regulations, but it has not established timetables or deadlines to manage the process. The department intends to revise its policy and procedures manual to coincide with the new regulations once they are adopted.

We recommended that the department should aggressively and promptly pursue development of program regulations. If the current draft is too complex or lengthy, the program should consider breaking the draft regulations into segments, first identifying and addressing the highest priorities. The department should ensure that the guidelines include measures that will improve consistency in equipment purchase decisions, including a list of allowed and disallowed equipment and supplies, and statewide criteria for equipment purchase and replacement.

Department Action: Pending.

The department has not yet updated its regulations. However, it reported that it has drafted proposed regulations and plans to divide the proposed regulations into separate parts for submitting through the regulatory process based on program priorities. At the time of its September 2003 response, the department expected to finish dividing and prioritizing its proposed regulations in September 2003, and then to proceed with those regulatory changes it deemed are the highest priority. The department offered no expected timetable for completing the approval process of any of its proposed regulations.



The department disagrees with our finding that it lacks sufficient guidelines to ensure that staff members use the same standards or information to decide whether equipment purchases are warranted. The department reported that it believes its current system provides consistency and flexibility.

Finding #3: By allowing operator partnerships with private businesses, the program has collected inequitable operator fees and may not have complied with federal law.

By encouraging private partnership agreements between blind operators and private food service businesses, the department recently has allowed the private businesses to obtain program benefits that federal law intended for blind operators. Under a private partnership agreement, a contract between a program participant and a private food service business, the private business pays the program participant a monthly amount and in exchange is allowed to prepare and sell food at a program site in a state or federal building and to receive other program benefits such as consulting services and equipment maintenance.

We found numerous problems with the program's administration of its private partnership agreements. Specifically, it has not adequately ensured that its actions conform to the intent of the federal Randolph-Sheppard Act under which the program was created. Moreover, because it has not developed guidelines on when or how to implement the partnerships, it cannot be sure that the partnerships are allowable, prudent, or consistent or that they protect the interests of the State or the program participants. Because of the terms of the partnerships, the department has lost its ability to monitor the investment of program funds in these locations in the same way that it can monitor the use of program funds at other locations, and it has not obtained enough information from the partnerships to determine if they are successful business ventures. Further, although the program generally provides the same services to private partnerships that it would to other program participants, it allows some partnerships to pay disproportionately lower fees than other program participants pay.

To improve its administration of private partnerships, we recommended that the department take the following steps:

- Establish and follow guidelines for partnerships, ensuring that they are in agreement with federal and state law, regulations, and guidance.
- Require program staff to further study the cost and benefit of each partnership to ensure that future agreements do not inequitably drain program resources.
- Establish a review process for proposed private partnerships that allow the department to adequately protect the interests of the State and program participants.
- Monitor partnerships to enable the department to compare the costs and benefits of partnerships and determine if they achieve program objectives.
- Ensure that program staff are able to monitor the success of all locations, including private partnerships.

Department Action: Pending.

➤ The department reported that its proposed regulations address agreements between program participants and private entities and it reported that, in consultation with the California Vendors' Policy Committee, it will establish guidelines to ensure compliance with federal and state law, regulations, and guidance. However, the department did not provide us with an estimate of when these proposed regulations would be approved. At the time of its September 2003 response, the department had yet to determine what parts of its proposed regulations would be submitted for approval through the regulatory process.

➤ The department stated that it already evaluates the costs and benefits of agreements between program participants and private entities, but will review its evaluation process to ensure that the review adequately protects program resources.

➤ The department reported that it does not plan to establish a review process for proposed partnerships. It believes its current process adequately protects the interests of the State and program participants.

The department also reported that it would review its monitoring procedures to further its ability to compare the costs and benefits of agreements and determine if they achieve program objectives.

Further, the department reported that it will continue to monitor the success of all locations.

Finding #4: The department has not corrected flaws in its process for pursuing past-due commissions, some of which may now be uncollectible.

Since August 1998 the department has not actively collected past-due commissions owed to the program by private vending machine businesses operating on federal and state properties. The department's lack of pursuit of these past-due commissions may have rendered these commissions uncollectible. Moreover, the department's collection process is inadequate and its new database cannot track past-due commissions. This problem has been compounded because the department has not maintained all its contracts, conducted planned audits, and appropriately trained its collection staff.

We recommended that the department consider moving the commission-collection function to its accounting section, which already collects operator fees for the program and possesses the necessary collection knowledge and accounts receivable tracking system.

Department Action: Corrective action taken.

The department reported that it completed its evaluation of its resources and feasibility of moving the commission-collection function and has moved the commission-collection function to the department's specialized services division. It also reported that it has added an additional staff person to the commission-collection function and that it continues to refine its database.

Finding #5: The department has not consistently met all of its responsibilities to program participants as required by law and its own regulations.

By not fulfilling all its responsibilities to program participants in terms of training, feedback, and financial monitoring, the department may have hindered the ability of participants to succeed and engage in improved work opportunities. Specifically, the department has not complied with state law that requires it to provide the program's initial training in two locations, nor has it consistently provided upward mobility training as required by federal law. Further, the department has not always offered operators documented feedback that might enable them to increase the success of their facilities even though its own policies require that it give such feedback every three months. Finally, the department has not ensured that operators submit required financial reports and fees, and thus cannot readily identify operators who may be having operating difficulties and need assistance.

We recommended that the department offer program participants a second training location and ensure that it identifies and offers upward mobility training classes. Further, the department should track location reviews to ensure that business enterprise consultants complete the reviews at least quarterly. We also recommended that the department should ensure that consultants contact operators regarding missing monthly operating reports when they are a month or more delinquent as required by regulations, and

discontinue its practice of waiting 60 days before identifying delinquent monthly operating reports. Finally, the department should ensure that the program monitors operators adequately to prevent the accumulation of significant past due fees and lengthy delinquencies in reporting. When operators refuse to submit financial reports as required by regulations, the department should demonstrate it is willing to suspend and terminate operators' licenses to ensure compliance with program requirements.

Department Action: Partial corrective action taken.

The department reported that it completed an evaluation of the program's entire training program to ensure it meets the needs of program participants and the requirements of state and federal laws and regulations. As a result, the department has extended its annual licensing class for new participants, which it continues to provide in one location, from six months to eight months. It also reported that it will provide additional training at field office locations via teleconference or face-to-face for all its program participants at least annually. The department reported that it had provided training in four locations during 2003 and plans to provide training opportunities for participants and staff in the northern and southern part of the State at least once a year.

The department also reported that it has completed all required quarterly location reviews in the last two quarters of fiscal year 2002-03 and expects to complete all quarterly location reviews in fiscal year 2003-04. In addition, the department reported that it established a tracking system to ensure that required reviews are completed.

Further, the department reported that it reviewed its current process for entering operating report data and determined that it is the most cost-efficient method of entering the data. It also reported that it strengthened its use of its tracking system and emphasizes routine reporting and appropriate follow-up of operator status. Finally, the department reported that it will continue to pursue operators with delinquent reports and unpaid fees consistent with its available resources and priorities.

Finding #6: The department has not corrected weaknesses in its process for assigning interim locations.

In a previous report, issued in August 1997, we reported that the department's policy for classifying and circulating announcements for available locations was inequitable because it had not developed a fair process for assigning interim locations. To date, the department still has not corrected this weakness.

To ensure that its application and selection process for locations is equitable, we recommended that the department establish procedures to circulate announcements for all permanent and interim food service locations to eligible operators.

Department Action: Pending.

The department maintains that its established procedures to circulate announcements for all permanent locations and to select interim operators are appropriate and fair. However, the department reported that it has re-evaluated the procedures it uses to select interim operators and has included procedures in the proposed regulations to ensure all interested operators have equal opportunity to be considered for interim locations.