**Chapter 6A-18 of the Florida Administrative Code**

The Division of Blind Services

Part 1, Vending Facility Program

**Rule 6A-18.040 Definitions.**

The following definitions apply throughout chapter 6A-18, Florida Administrative Code:

1. Department means the Florida Department of Education.
2. Division means the Division of Blind Services.
3. Permanent Licensed Operator Facility Agreement, or Permanent L.O.F.A., means a contract between the Division and a Blind licensee for the operation of a Division Vending facility in perpetuity. It contains the contractual obligations and expectations between the Vendor and the Division as well as the terms governing the interactions of both with property owners.
4. Temporary Licensed Operator Facility Agreement, or Temporary L.O.F.A., means a contract between the Division and a Blind licensee for the operation of a Division Vending facility for a specific period of time. It contains the contractual obligations and expectations between the Vendor and the Division as well as the terms governing interactions of both with property owners.

**Rule 6A-18.0401 Federal Regulations Adopted by Reference.**

The Department adopts and incorporates by reference Title 34, Code of Federal Regulations,

Part 361, effective August 19, 2016,

Part 363, effective August 19, 2016

Part 395, effective January 19, 1981, and

Part 397, effective August 19, 2016.

The regulations may also be obtained by contacting the Division of Blind Services, 325 West Gaines Street, Suite 1114, Tallahassee, Florida 32399-0400.

**Rule 6A-18.041 Establishment of Vending Facilities.**

The Division shall establish and maintain Vending facilities on federal, state, and other property wherever feasible, in light of appropriate space and potential patronage, projected Vendor income, required Division investment, availability of funds and other factors unique to each potential Vending facility. The Division shall retain title to all equipment, fixtures, and other items purchased with Division funds and assigned to a Vending facility. Should the Division, for any reason, temporarily forego the establishment of a Vending facility, the Division shall pursue the Division’s right to vending machine income under Title 20 of U.S. Code 107d-3, 34 Code of Federal Regulations Part 395, and Florida Statutes chapter 413.

**Rule 6A-18.042 Issuance of License.**

1. In order to be eligible for and maintain a license to operate a Vending facility, an individual must be:
2. A Blind person as defined in 34 Code of Federal Regulations 395.1, and section 413.033, Florida Statues;
3. A citizen of the United States;
4. Eighteen years of age or older;
5. Determined eligible to receive services as a client of the Division of Blind Services pursuant to rule 6A-18.050, Florida Administrative Code;
6. Possess a high school diploma or equivalency;
7. Must pass a security background investigation, which shall include fingerprinting, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies; and,
8. An individual who is found to have been convicted of or pled guilty or nolo contendere to, whether or not adjudication is withheld, any crime that is a felony or a first degree misdemeanor, shall be disqualified from eligibility for a license to operate a Vending facility unless the Department exempts the individual from disqualification based on a consideration of:
9. The passage of time since commission of the crimes;
10. The circumstances surrounding the crimes;
11. The nature of the harm caused any victim of the crimes; and,
12. Other evidence provided by the applicant demonstrating to a clear and convincing standard that the applicant should not be disqualified from eligibility.
13. The Division may grant an exemption from disqualification from this section only as provided in section 435.07, Florida Statutes, except that the requirements of section 435.07(1)(a), Florida Statutes, shall apply to all disqualifying offenses described in subsection 6A-18.042(2), Florida Administrative Code
14. To apply for licensure, an individual must:
15. Meet with his or her Division vocational rehabilitation counselor and express an interest in the Vending facility program;
16. Complete a vocational assessment;
17. Determine, as agreed to by his or her vocational rehabilitation counselor pursuant to 34 Code of Federal Regulations Parts 361.45 and 361.46, that Vending facility operator is an appropriate employment outcome, based on the results of of the vocational assessment and any other pertinent training received by the client within the past calendar year. The counselor may recommend further assessment and training as needed.
18. The Division shall issue a license to operate a Vending facility after an individual has satisfactorily completed:
19. The Vending Facility Training Program Application (Form DBS-BBE 005) as incorporated by reference in rule 6A-18.046, Florida Administrative Code;
20. An assessment interview before a panel comprised of Division employees and members of the State Committee of Vendors;
21. A ten-day work experience in which the individual works with a local licensed Vendor to determine whether Vending facility operator is an appropriate employment goal;
22. The Vending Facility Training Program at the Rehabilitation Center for the Blind in Daytona Beach, Florida, with scores of eighty percent or higher on all testing;
23. Four to ten weeks of on-the-job training at an existing Vending facility; and
24. The Licensure Examination with a score of eighty percent or higher.
25. The license shall be continuously valid, subject to:
26. The Blind licensee’s continuing to meet the requirements of licensure;
27. The voluntary relinquishment of the license;
28. Death of the Blind licensee;
29. Revocation of the license as set forth in rule 6A-18.00421, Florida Administrative Code; or
30. The Blind licensee failing, for a period of five years, to actively hold either a Permanent or a Temporary L.O.F.A.;
31. Any Blind licensee whose license becomes invalid under paragraph 6A-18.042(6)(e), Florida Administrative Code, must complete the requirements of subsection 6A-18.042(5), Florida Administrative Code, prior to participating in any future selection process.

**Rule 6A-18.0421 Conditions for Termination of a L.O.F.A.; Suspension or Revocation of License.**

1. A Blind licensee’s L.O.F.A. may be terminated or a license may be suspended or revoked for any one of the offenses listed in subsection (2) below. When the Division finds that a Blind licensee has committed any act for which the Division may impose discipline, the Division shall impose an appropriate penalty within the ranges set forth in subsection (2) unless, based upon consideration of aggravating and mitigating factors in the individual case that are among those set out in subsection (4) of this rule, the Division determines that a penalty outside the range in those guidelines but within statutory limitation is appropriate. In those cases in which the Division relies on aggravating or mitigating factors to depart from the ranges in the disciplinary guidelines, such aggravating and mitigating factors shall be stated in the written notice informing the Blind licensee of the penalty.
2. The table below includes the acts for which the Division may impose discipline, along with the applicable disciplinary guidelines. Each of the disciplinary guidelines shall be interpreted to include the following range of disciplinary actions: “letter of warning”; “letter of sanction”; “termination of L.O.F.A.”; “suspension”; and “revocation.”

The term “letter of sanction” shall mean a written communication from the Division to the Blind licensee outlining a violation as described in this subsection and carrying such penalty as described in subparagraph 6A-18.0425(3)(b), Florida Administrative Code.

The terms “suspension” and “revocation” shall mean any length of suspension or revocation of a license to operate a Vending facility, including permanent revocation, and shall include a comparable period of denial of an application for a license.

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| 1. Violation of the rules set forth in chapter 6A-18, Florida Administrative Code | Letter of Warning – Revocation |
| 1. Violation of the requirements for licensure as set forth in subsection 6A-18.042(1), Florida Administrative Code | Termination of L.O.F.A. – Revocation |
| 1. Non-compliance with the terms of a L.O.F.A. | Letter of Warning – Termination of L.O.F.A. |
| 1. Non-compliance with the terms and conditions of any permit or lease for property on which a Vending facility is located. | Letter of Warning – Termination of L.O.F.A. |
| 1. Misuse or unauthorized use of Vending facility or equipment, including damage or destruction due to negligence or the failure to use ordinary or reasonable care. | Letter of Warning – Termination of L.O.F.A. |
| 1. Removal of state property or state funds from a Vending facility without the prior written approval of the Division. | Termination of L.O.F.A. – Revocation |
| 1. Misuse or misappropriation of state funds. | Termination of L.O.F.A. – Revocation |
| 1. Falsification of facility records or reports. | Letter of Warning – Revocation |
| 1. The use of threatening, discriminatory, harassing, or abusive language at the Vending facility. | Letter of Sanction – Revocation |
| 1. Being in possession of, selling or being under the influence of illegal drugs or alcohol at a Vending facility. | Letter of Sanction – Revocation |
| 1. Becoming incapacitated to such a degree that the Blind licensee can no longer manage the Vending facility. | Termination of L.O.F.A. – Revocation |
| 1. Failure to successfully complete, every two years, three continuing education units of courses approved by the Division. | Suspension – Revocation |
| 1. Conviction of or plea of guilty or nolo contendere to, whether or not adjudication of guilt is withheld, a crime that is a felony or a first degree misdemeanor. | Termination of L.O.F.A. – Revocation |
| 1. Unlicensed carrying of concealed weapons or concealed firearms, as set forth in section 790.01, Florida Statutes, in a Vending facility by the Blind licensee, excluding tools typically used in the operation of a Vending facility. | Termination of L.O.F.A. – Revocation |
| 1. Failure by the Blind licensee to pay the Division for initial working capital when due, or Set-aside funds. | Termination of L.O.F.A. – Revocation |
| 1. Failure by the Blind licensee to pay commissions or other financial obligations incurred in execution of the L.O.F.A., following due notice from the Division. | Termination of L.O.F.A. – Revocation |
| 1. Default on any repayment plan between the Blind licensee and the Division for initial working capital, Set-aside funds, or commission deficiencies. Default shall be determined as lack of satisfaction of the balance on said debt, following due notice from the Division. | Termination of L.O.F.A. – Revocation |
| 1. Failure by the Blind licensee on two consecutive occasions to submit, under the L.O.F.A., the monthly business reports or Set-aside funds by the due date. | Termination of L.O.F.A. – Revocation |
| 1. Failure on three separate occasions during any calendar year to submit, under the L.O.F.A., the monthly business reports or Set-aside funds by the date due. | Termination of L.O.F.A. – Revocation |
| 1. Failure to pass the security background investigation required by paragraph 6A-18.042(1)(f), Florida Administrative Code, subject to the exemption criteria in subsections 6A-18.042(2) and 6A-18.042(3), Florida Administrative Code | Suspension – Revocation |

1. Pursuant to section 120.695, Florida Statutes, the Division designates the first violation of the following rules as minor violations for which the Division shall issue a Notice of Noncompliance, allowing the Blind licensee fifteen days to correct the violation prior to application of the discipline outlined in subsection 6A-18.0421(2), Florida Administrative Code:
2. Paragraph 6A-18.0421(2)(l), Florida Administrative Code;
3. Paragraph 6A-18.0421(2)(o), Florida Administrative Code;
4. Paragraph 6A-18.0421(2)(p), Florida Administrative Code; and
5. Paragraph 6A-18.0421(2)(q), Florida Administrative Code
6. Based upon consideration of aggravating and mitigating factors present in an individual case, the Division may deviate from penalties recommended in subsection (4) of this rule. The Division may consider the following as aggravating or mitigating factors:
7. The severity of the offense;
8. The danger to the public;
9. The number of repetitions of offenses;
10. Length of time since the violation;
11. The number of times the Blind licensee has been previously disciplined by the Division;
12. The length of time the Blind licensee has been licensed and contributions to the program;
13. The actual damage, physical or otherwise, caused by the violation;
14. The deterrent effect of the penalty imposed;
15. The effect of the penalty on the Blind licensee’s livelihood;
16. Any effort of rehabilitation by the Blind licensee;
17. The actual knowledge of the Blind licensee pertaining to the violation;
18. Attempts by the Blind licensee to correct or stop the violation or refusal by the Blind licensee to correct or stop the violation;
19. Actual negligence related to the Blind licensee in any violation;
20. Penalties imposed for related offenses under subsection (4) of this rule;
21. Monetary or other benefit to the Blind licensee;
22. Present status of physical and/or mental condition contributing to the violation including recovery from addiction;
23. Any other relevant mitigating or aggravating factors under the circumstances.
24. The Division shall serve written notice of its intent to remove a Blind licensee from a Vending facility or to suspend or revoke a license by hand delivery or certified mail, to the Blind licensee’s last known address. Such action shall be governed by rule 6A-18.0423, Florida Administrative Code, and chapter 120, Florida Statutes

**Rule 6A-18.0422 Emergency Removal of a Vendor from a Vending Facility.**

1. If a Vendor’s actions in operating a Vending facility constitute an immediate danger to public health, safety or welfare, or to the assets of the Vending facility, the Division shall immediately remove the Vendor from the Vending facility.
2. The Division shall provide the Vendor written documentation of the cause for such removal within ten days of the date of the action by hand delivery or certified mail to the Vendor’s last known address.

**Rule 6A-18.0423 Grievance Procedure.**

1. A Blind licensee may file a grievance if dissatisfied with action taken by the Division which affects the Blind licensee in the operation of the relevant Vending facility.
2. The grievance shall be reviewed by a five member board which shall be comprised of two persons selected by the Division and three persons selected by the State Committee of Vendors. The board shall review the written grievance, and documents attached to such grievance and all relevant Division documents.
3. The grievance shall be filed in writing with the Division, within twenty-one calendar days of notice of the action giving rise to the grievance.
4. In all matters not involving decisions under rule 6A-18.0425, Florida Administrative Code:
5. The written grievance shall specify the action being grieved, contain a recommendation for its resolution and include any documents deemed relevant by the grievant to the grieved action or the proposed resolution;
6. The board shall consider the facts presented in the written grievance, the documents attached to such grievance, and all relevant Division documents to determine if any action taken by the Division violates the applicable rules and regulations;
7. The board shall issue a recommendation to the Division supported by a simple majority of the board within fifteen business days of the Division’s receipt of the written grievance;
8. The Division shall advise the Blind licensee in writing of its disposition of the grievance within thirty business days of the Division’s receipt of the written grievance;
9. If the grievance is not resolved in writing to the satisfaction of the Blind licensee within thirty business days of the receipt of the grievance, the Blind licensee may request a hearing pursuant to chapter 120, Florida Statutes The request shall be in writing, must comply with the requirements of section 120.569(2)(c), Florida Statutes, filed with the Director, Division of Blind Services, within twenty-one calendar days of receipt of the Division’s disposition.
10. In matters involving decisions under rule 6A-18.0425, Florida Administrative Code, the procedure shall be as stated above except that:
11. The grievance shall be filed in writing with the Division within seven business days of the Division appointment announcement;
12. The written grievance shall not include any material required under subsection 6A-18.0425(1), Florida Administrative Code;
13. The board shall consider the facts presented in the written grievance, the documents attached to such grievance, and all relevant Division documents to determine if any action taken by the Division violates the applicable rules and regulations; and,
14. The board’s recommendation shall be issued to the Division within twelve business days of the Division’s appointment announcement.

**Rule 6A-18.0424 Announcement of Vending Facility Vacancies.**

1. Upon the establishment of a new Vending facility or when a vacancy occurs in an existing Vending facility, the Division shall announce the vacancy in an accessible format as a competitive opportunity.
2. An individual is deemed eligible to compete for a Vending facility vacancy only if the individual:
3. Is a Blind licensee;
4. Has completed the Business Opportunity Application form, Form DBS-BBE 007, as incorporated by reference in subsection 6A-18.046(2), Florida Administrative Code;
5. Does not have an outstanding debt to the Bureau of Business Enterprise;
6. Is current with Continuing Education requirements (see paragraph 6A-18.0421(2)(h), Florida Administrative Code); and,
7. In the case of a Vending facility vacancy filled with a Vendor under a Permanent L.O.F.A., has established or, if selected, will establish within thirty days of executing the Permanent L.O.F.A. and maintain for the term of such L.O.F.A. a legal physical residence within seventy-five miles of the Vending facility. A single thirty day extension of this requirement shall be granted upon written request by the Vendor.
8. Each vacancy shall be announced for a minimum of two weeks and shall contain, at a minimum, the following information:
9. The location of the Vending facility;
10. The type of Vending facility;
11. The hours of operation;
12. A general description of services and items currently sold;
13. Accessibility of the Vending facility;
14. Staffing pattern;
15. Estimated annual sales;
16. Application instructions;
17. Deadline date for applying; and,
18. Any special information or requirements.
19. After notification to the chairperson of the State Committee of Vendors, the Division may elect not to announce a vacancy and instead directly place a Blind licensee under the following circumstances:
20. To operate a new or existing Vending facility to determine accurate gross sales information; or
21. To remedy a situation that has improperly or adversely affected a Blind Licensee.

**Rule 6A-18.0425 Application and Selection.**

1. Selection applications shall be submitted on the Business Opportunity Application (Form DBS-BBE 007) as incorporated by reference in Rule 6A-18.046, Florida Administrative Code. All items in such form must be completed and received in accordance with the application instructions by the closing date indicated in the announcement.
2. Selection panel. The Division shall establish and maintain a permanent statewide selection panel. The selection panel shall be responsible for recommending candidates for vacant Vendor manager’s positions for Vending facilities referred to the panel by the Division. The selection panel shall be composed of five members, two selected by the Division and three selected by two-thirds vote of the State Committee of Vendors. The selection panel shall have two alternate members selected by two-thirds vote of the State Committee of Vendors. Alternate members shall serve when a primary member selected by the State Committee of Vendors is unable to serve. Members selected by the State Committee of Vendors shall serve for three years. However, in order to establish staggered terms, initially:
3. One representative selected by the Committee shall serve a one year term,
4. One representative selected by the Committee shall serve a two year term, and
5. One representative selected by the Committee shall serve a three year term.
6. Alternate selection panel members shall have three year terms.
7. The selection panel is responsible for reviewing all selection applications, formulating any interview questions to be asked, interviewing applicants, ranking the applicants, and submitting the recommendation package to the Division for final action. The selection panel shall observe the following elements in evaluating an applicant’s credentials:
8. Each applicant shall take a test provided on a date and time specified by the Division. The test shall be proctored by a Division employee to ensure consistency in test taking procedures. The questions will be scaled such that an applicant can receive a total of forty points.
9. Each applicant will be subject to a performance review. Worth a maximum of twenty-five points in the selection process, the performance review consists of the following:
10. A maximum of six points are available as credit for experience, at the rate of one-tenth of a point per month under a L.O.F.A. No extra points are given for applicants holding a current L.O.F.A.
11. A maximum of ten points are available for Division business consultant responses to a performance questionnaire. The questionnaire is to be completed by a Division business consultant and provided to the Division. For Vendors under a L.O.F.A. for the most recent thirty-six consecutive months, the questions shall be equally weighted to allow for a maximum of ten points. For a Vendor under a L.O.F.A. for less than the most recent thirty-six consecutive months, the questionnaire score shall be pro-rated by the number of months under a L.O.F.A. divided by thirty-six. Vendors not currently under a L.O.F.A. are ineligible for consultant questionnaire points.
12. A maximum of nine points are available for meeting the net profit margin percentages, as set forth in the L.O.F.A., during the most recent thirty-six consecutive months. A maximum of three points are available per twelve month period. Net profit points will be pro-rated for Vendors with more than twelve months but fewer than thirty-six months duration under a L.O.F.A. or who have changed Vending facilities in the most recent twelve consecutive months.
13. Applicants shall be penalized for the following incidents during the most recent thirty-six consecutive months. A L.O.F.A. terminated for breach or abandonment during the thirty-six month period results in a loss of any performance review points due for performance prior to the termination and a fifteen point reduction in score. The fifteen point reduction for termination may be avoided if the Blind licensee completes retraining required by the Division. Letters of sanction result in a five point reduction in score for each letter received during the thirty-six month period. Letters of warning result in a two point reduction in score for each letter received during the thirty-six month period. Late monthly business reports result in a loss of one point per late business report during the thirty-six month period.
14. Applicants with the top five combined testing and performance review scores, including ties, qualify for an interview with the selection panel. If the Vending facility in question is currently run under a Temporary L.O.F.A., the applicant who holds the Temporary L.O.F.A. is also automatically eligible to be interviewed. The interview and associated points are structured as follows:
15. Break the ice period: The selection panel will initiate the interview with general opening questions. There are no points for this portion of the interview.
16. Structured interview component: The selection panel will ask each applicant the same five questions, determined prior to the first interview, and each panelist will rate the responses on a scale of 0 to 5. At the end of this portion of the interview each panelist’s scores are averaged and then all panelists’ averaged scores are added together. A maximum of twenty-five points are available.
17. Interactive component: The applicant is given the opportunity to present the reasons they feel they are best suited to this Vending facility. Following the presentation the selection panel may ask questions of the applicant relating to the presentation or regarding any inconsistencies between Division documentation and the presentation. The selection panel is also permitted to question the applicant regarding past performance. Based on the presentation and the following discussion each panelist will rate the applicant from 0 to 10. These scores will be averaged for a maximum possible score of ten points.
18. Distressed Vending facility points: A Vending facility may be determined to be distressed by the Division upon consideration of the following factors: a significant decrease in gross sales; a significant decrease in customer base; the condition of the equipment; and the overall condition of the Vending facility. If the applicant currently holds a Temporary L.O.F.A. in a Vending facility determined to be distressed by the Division and is applying for a Permanent L.O.F.A. in the same Vending facility, the applicant is eligible for up to five points. The panelists will review Vending facility records and on a scale of 0 to 5 rate the improvement made by the applicant. The panelists’ scores will be averaged for a maximum possible score of five points.
19. Following the interview, the scores from the test, performance review, and interview are totaled. The selection panel reviews the total scores, prior performance, experience, and the type of Vending facility. The selection panel may recommend that the Vending facility be re-advertised or that one of the applicants who was interviewed be awarded the Vending facility. If the selection panel recommends an applicant without the highest score it must provide an explanation, in writing, to the Division. The selection panel will submit its recommendations, in writing, to the Division.
20. The Division shall review the recommendation package to ensure all conditions described above are complied with prior to making the appointment. The Division shall make all appointments.

**Rule 6A-18.043 The State Committee of Vendors.**

1. The Division shall establish a State Committee of Vendors. The committee shall be composed of one representative and one alternate from each vending facility district, and a chairperson and vice chairperson elected on a statewide basis by a majority vote of all Vendors. The districts shall be established to assure equitable representation of all Vendors in the program on the basis of such factors as geography and Vending facility type with the goal of providing for proportional representation of Vendors on federal, state, and private property.
2. The State Committee of Vendors shall:
3. Actively participate with the Division in major administrative decisions and policy and program development decisions affecting the overall administration of the Vending facility program;
4. Receive and transmit to the Division grievances at the request of Vendors and serve as advocates for such Vendors in connection with such grievances;
5. Actively participate with the Division in the development and administration of a system for the transfer and promotion of Vendors;
6. Actively participate with the Division in the development of training and retraining programs for Vendors; and,
7. Sponsor, with the assistance of the Division, meetings and instructional conferences for Vendors within the state.
8. The Division shall provide for the biennial election of the members to the State Committee of Vendors. A committee member, the chairperson, and vice chairperson may serve more than one term.
9. The State Committee of Vendors shall meet not less than quarterly in a location agreed upon by the chairperson and the Division.

**Rule 6A-18.044 Licensed Operator Facility Agreement.**

1. Each Vendor operating a Vending facility shall execute and maintain a L.O.F.A. with the Division.
2. A Permanent L.O.F.A. is implemented for the operation of a Division Vending facility in perpetuity by a Vendor. It contains contractual obligations and expectations between the Vendor and the Division as well as the interactions of both with property owners. A Permanent L.O.F.A. is awarded through the selection process, except as provided by subsection 6A-18.0424(4), Florida Administrative Code
3. Blind licensees who fall into any of the following three categories must sign a Permanent L.O.F.A. for a minimum contract period of twelve months on their next Vending facility:
4. Blind licensees who have never operated a Vending facility under a Permanent L.O.F.A.
5. Blind licensees whose most recent Permanent or Temporary L.O.F.A. was cancelled for breach or abandonment.
6. Blind licensees who have not actively held either a Permanent or a Temporary L.O.F.A. within five years immediately preceding the offer of the L.O.F.A. and who have successfully completed the required retraining in accordance with subsection 6A-18.042(5), Florida Administrative Code
7. An exception to subparagraph 6A-18.044(2)(a)1., Florida Administrative Code, exists for Blind licensees who have operated a Vending facility under a Temporary L.O.F.A. Blind licensees who have operated a Vending facility under a Temporary L.O.F.A. may sign a Permanent L.O.F.A. for less than twelve months if they are awarded a Permanent L.O.F.A. at the Vending facility where they held the Temporary L.O.F.A. The twelve months requirement shall be reduced by the number of months the Vendor held the Temporary L.O.F.A.
8. A Temporary L.O.F.A. is identical to a Permanent L.O.F.A. except that it is time specific as to its duration and is not awarded in the selection process but rather by recommendation of a committee.
9. The committee consists of:
10. A business consultant from a region other than where the vacancy has occurred;
11. A designee of the Division;
12. The chairperson of the Committee of Vendors or his or her designee.
13. Temporary L.O.F.A. opportunities will be announced along with a deadline for applicants to respond. Following the response period the committee will interview applicants and make a recommendation to the Division.
14. Blind licensees operating a temporarily closed Vending facility may sign a Temporary L.O.F.A. for one other Vending facility without losing their rights to the closed Vending facility. Upon notice of the reopen date for the closed Vending facility, the licensed operator has three days to elect to return to the original Permanent L.O.F.A. Vending facility, when it reopens, or forfeit their rights to the original Vending facility and sign a Permanent L.O.F.A. for the Vending facility they currently operate under a Temporary L.O.F.A.
15. The Division provides the initial working capital for each Vending facility in the form of inventory, cash, and coin necessary for conducting business. The total amount of initial working capital is entered on the L.O.F.A. Once initial working capital is supplied, it is the responsibility of the Vendor to maintain, at all times, a total inventory equal to the initial stock and/or cash value provided by the Division, less any amount repaid to the Division. The Blind licensee will not be allowed to apply for posted business opportunities, or enter into either a Permanent L.O.F.A. or a Temporary L.O.F.A. while there is an initial working capital balance from any past Vending facilities operated by the Blind licensee.
16. The required Set-aside funds, which are paid monthly under both the Permanent L.O.F.A. and the Temporary L.O.F.A., are a percentage of the monthly Net proceeds of the Vending facility set by the Division after collaboration with the Committee of Vendors.
17. Under both the Permanent L.O.F.A. and the Temporary L.O.F.A., the Vendor shall file a monthly report utilizing the on-line reporting system maintained by the Division, no later than the last calendar day of the following month. The Set-aside funds are due with the monthly report.

**6A-18.045 Newspaper Vending Sales.**

1. General. The Division has the exclusive right to provide Vending facilities, including newspaper racks and newspaper vending machines, at interstate highway rest stops pursuant to 23 U.S. Code Section 111(c), 20 U.S. Code Section 107, and section 413.051, Florida Statutes.

The Division’s authority to approve the sale of newspapers and other information to the traveling public at highway rest areas is subject to an agreement with the Florida Department of Transportation. All regularly published newspapers shall have the opportunity to provide vending sales at interstate rest stops by permit subject to the conditions established in this rule.

1. Conditions.
2. The publisher or distributor will be responsible to provide a rack or vending machine of the type, style, and color normally used by the publisher or distributor that is stable, durable, and fastened to the ground.
3. The rack or vending machine will be maintained, repaired, operated and cleaned by the publisher or its agent. The rack or vending machine will be new or in like-new condition when placed into use in the rest area.
4. When necessary for stability, the publisher or distributor will provide a concrete reinforced pad on which to place the newspaper vending machines. The placement of the rack or vending machine will be in an area agreed upon by the Department of Transportation and the Division. The placement must not create a safety hazard or interfere physically with access to other rest area facilities or vending machines. Publishers and distributors agree to maintain the newspaper vending machines in working order and remove any refuse created by the use of the vending machine.
5. The publisher or distributor shall provide continuous availability of its current issue to the public.
6. The publisher or distributor shall indemnify and hold harmless the Division and the State of Florida against any claims arising out of negligence in the presence and/or operation of the rack or vending machine provided. All contracts for vending services at rest stops entered into after the effective date of this rule will require this same indemnification.
7. Compensation. The publisher or distributor will be required to compensate the division at the rate of ten dollars annual administrative fee per newspaper rack. The Department reserves the right to monitor the service being provided and inspect the condition, cleanliness of equipment and other matters related to the operation of the applicant’s newspaper vending on the interstate.
8. Application and permit procedures.
9. Publishers or distributors wishing to dispense newspapers on the interstate highway shall, by letter, prepare an application for permit to dispense newspapers, and mail the application to the Division of Blind Services, 325 West Gaines Street, Suite 1114, Tallahassee, Florida 32399-0400.
10. The application letter shall include: the locations desired, the newspapers to be sold, and proposed timing of the installations. If the Division fails to notify the publisher or distributor within ten business days of receipt of the application, the application will be deemed approved.
11. Transfer of newspaper racks from one location to another may be accomplished at the request of the publisher or distributor depending upon the availability of space.
12. Termination of permit.
13. Either the newspaper publisher or distributor or the Division may terminate a permit entered into under this rule, by giving thirty calendar days written notice. If the permit is to be terminated by the Division, written notice with reasons for the termination will be given to the newspaper publisher or distributor. The Division may only terminate a permit if the requirements of paragraphs (2)(a) through (2)(d) of this rule are not met or if a safety hazard is created and not remedied by a publisher or distributor, or if the licensing fee is not paid.
14. The written notice shall also provide the publisher or distributor with thirty calendar days to institute corrective action. If the Division determines that the publisher or distributor has failed to institute corrective action within the time allowed in the written notice, it shall notify the publisher or distributor in writing and direct the publisher or distributor to remove the racks or vending machines in question within ten calendar days. If, during these final ten days the publisher or distributor files a request for administrative hearing pursuant to chapter 120, Florida Statutes, the racks or vending machines that are the subject of the dispute will not be removed until after a final order is issued. If the publisher or distributor fails to remove racks or vending machines, the Division may remove the racks or vending machines without further notice. The notice that the corrective action has not been taken or is not adequate shall be considered final agency action for the purposes of section 120.569, Florida Statutes
15. Pursuant to section 120.695, Florida Statutes, the Division has designated the first violation of subsection 6A-18.045(2), Florida Administrative Code, as a minor violation for which the Division shall issue a Notice of Noncompliance, allowing the vendor fifteen days to correct the minor violation prior to application of other appropriate discipline.

**Rule 6A-18.046 Incorporation by Reference.**

The below listed documents are incorporated by reference to become effective August 2016, and may be obtained from the Division of Blind Services, 325 West Gaines Street, Suite 1114, Tallahassee, Florida 32300-0400.

1. Application for the Vending Facility Training Program, Form DBS-BBE 005 (revised 11/11)
2. Business Opportunity Application, Form DBS-BBE 007 (revised 5/16)
3. Facility Vendor’s Monthly Business Report, Form DBS-BBE 700w (revised 6/16)
4. The Licensed Operator Facility Agreement, Form DBS 730 (revised 6/16)
5. Temporary Licensed Operator Facility Agreement, Form DBS 730a (revised 6/16) and,
6. Consultant Questionnaire, Form DBS-BBE 016 (revised 6/16)