

**INTERSTATE HIGHWAYS WELCOME CENTERS AND REST  
AREAS VENDING MACHINE SERVICES INVITATION FOR BID  
(IFB)**

**Department of Labor and Industry  
Bureau of Blindness and Visual Services**

**IFB # 6100029163**

**Closing Date: May 22, 2014 at 10 AM**

**Table of Contents**

ATTACHMENT A:	Statement of Work	Pages 2 - 10
ATTACHMENT B:	Contractual Requirements	Pages 11 - 22
ATTACHMENT C:	Pennsylvania Interstate Highway Welcome Centers & Rest Areas Site Locations	Page 23 - 24
ATTACHMENT D:	Calendar of Events	Page 25
Exhibit I	Product Price List	
Exhibit II	Memorandum of Understanding between PA Dept. of Transportation and the Office of Vocational Rehabilitation, Bureau of Blindness and Visual Services	

## ATTACHMENT A

### Statement of Work

**GENERAL:** The purpose of this “Invitation for Bid” (IFB) is to solicit bid proposals to engage the services of a qualified vending company to provide installation, servicing of vending machines, and the sale of products through those vending machines, for the Office of Vocational Rehabilitation (OVR), Bureau of Blindness and Visual Services/Business Enterprise Program (BBVS/BEP) in the Commonwealth of Pennsylvania as listed in ATTACHMENT C of this document. This is a three-year term contract with two, one-year renewal options.

The selected Contractor will provide the stipulated vending machine services in Interstate Highways Welcome Centers and Rest Areas specified in Attachment C regardless of sales volume or size of the location, with the exceptions of such facilities operated by current vendors who are blind. See ATTACHMENT C for the list of those locations.

Additional interstate highway locations in the Commonwealth may be added during the course of the contract. The addition of Interstate locations not listed in ATTACHMENT C is subject to Pennsylvania Department of Transportation (PennDOT) need and OVR/BBVS approval. BBVS will provide the selected Contractor with a written contract notification informing that Contractor of PennDOT locations added to the base award. Failure to service all listed Interstate locations can result in termination of the contract.

At the discretion of BEP and PennDOT, vending sites identified as service locations for purposes of this IFB, or as may be added later to the contract resulting from this IFB, may be removed from contract service coverage.

This bid is to be submitted electronically through the PA Supplier portal by registered vendors only at <http://www.pasupplierportal.state.pa.us>. Please print and review all attached documents.

**Type of Contract:** This Service Contract serves to provide vending products to include, but not be limited to, hot foods, cold foods, coffee, ice cream, sodas, juice, water, and snacks, including delivery, maintenance, cleaning, repair, and/or replacement of vending machines owned, leased, or contracted by the Contractor. Vending products available for sale through this Service Contract must also include healthy, nutritional food choices. Guidance as regards what foods constitute healthy choices is available to the Bidder at the following website: <http://www.blindmerchants.org/education/stocking-healthy-options-for-randolph-sheppard-vendors>.

This Vending Machine Service Contract is governed by the Contractual Requirements included as ATTACHMENT B incorporated into this IFB, as well as the Commonwealth of Pennsylvania’s (Commonwealth) Standard Contract Terms and Conditions, also included in this IFB.

The Issuing Office, in its sole discretion, will undertake negotiations with the Bidder whose bid, in the judgment of the Issuing Office, shows that party to be qualified, responsible and capable of performing the functions and fulfilling the responsibilities attendant to the vending machine services contract.

**Purpose:** This Invitation for Bid (IFB) provides to those interested in submitting proposals for the subject procurement (Bidder) sufficient information to enable them to prepare and submit proposals for OVR/BBVS's consideration on behalf of the Commonwealth to satisfy a need for vending machine services in PennDOT-owned or -leased properties, as defined in this IFB and in subsequent written contract amendments, in the Commonwealth of Pennsylvania.

**IMPORTANT:** "Vending machine-only" facilities managed vendors who are blind operating under the auspices of the Randolph-Sheppard Act are not included in the contract resulting from this IFB.

**Issuing Office:** The Bureau of Blindness and Visual Services, Business Enterprise Program (Issuing Office) has issued this IFB on behalf of the Commonwealth of Pennsylvania. The sole point of contact in the Commonwealth for this IFB is:

The PA Department of Labor and Industry  
Bureau of Administrative Services  
651 Boas Street, Room 210  
Harrisburg, PA 17121

Attention: Steven Wolf

All inquiries regarding this IFB are to be referred to that individual via e-mail at:

[RA-li-OIT-BAS-Procur@state.pa.us](mailto:RA-li-OIT-BAS-Procur@state.pa.us)

**Scope of Work:** This contract will be awarded to the Bidder whose proposal demonstrates that the Bidder has five or more years of successful experience providing vending machine services, as defined in this IFB, and is a responsive, responsible vendor whose services are the most advantageous to the needs of the Commonwealth. The selected Contractor will provide a single source, full management program, which will provide vending machine services at Interstate Highway Welcome Centers and Rest Areas throughout Pennsylvania.

The selected Contractor will be responsible for all aspects of vending machine services on designated Interstate highways property. Contractor responsibilities under the Contract include, but are not limited to:

- Installation, maintenance and replacement of vending machines and associated equipment as needed or directed by BBVS/BEP;
- Sale and management of sales of products through said vending machines;
- Regular inspection of vending machines/sites and collection of vending machine proceeds;
- Maintenance of accurate records regarding machine receipts, machine maintenance, applicable health, safety or other certifications as may be required by law;

- Timely submittal to BBVS of reports reflecting revenue, disbursements, calculation of gross sales and commissions, vending machine activity, and other customer service or problem resolution activity as may have occurred during the report period;
- Quarterly reports to be accompanied by commission payments payable to the Commonwealth of Pennsylvania equal to an amount no less than the percentage of monthly gross sales as stipulated in the executed contract.

Simultaneously, a copy of the Contractor's quarterly report accompanied by the corresponding Excel financial spreadsheet(s) must also be transmitted to BEP via e-mail.

Information regarding relevant BEP e-mail addresses needed to comply with this requirement will be provided to the Contractor at the time of award.

**Commission:**

- To compete in this IFB, a bid proposal must assure BBVS a commission equal to twenty-five percent, or more, of the monthly gross sales.
- "Gross sales" is defined as the total invoice value of sales, before deducting sales tax, customers' discounts, returns, or allowances.
- The Bidder's quoted commission must be consistent through the entire product price list noted on Exhibit I.
- The Bidder's quoted commission is equally applicable to all machines the Bidder services regardless of the products dispensed.

Detailed information regarding Contractor reporting responsibilities, reporting schedules, reporting format, reporting mechanisms, etc. is presented in ATTACHMENT B of this IFB and is incorporated into the awarded contract.

All covered Interstate highways locations identified at the time of the award will be included in the final contract. Increases in the number of covered locations will be incorporated into that contract by way of subsequently-approved written amendments. The number, type, and locations of machines may fluctuate and no minimum is guaranteed.

At the discretion of BEP and PennDOT, locations noted on ATTACHMENT C now, or in a revised list at a later date, may be removed from that list.

The selected Contractor may provide stipulated contract services directly or through sub-contractors whose use has been approved by the Issuing Office.

**A Bidder's intention to administer contract services through subcontractors must be identified in its response to this IFB and must be accompanied by information identifying and verifying the subcontractors' credentials to perform the contracted vending machine service.**

**The selected Contractor's use of subcontractors not previously approved at the time of contract award must be preceded by written approval from the Issuing Office.**

The Contract will be awarded to a single Contractor for Interstate Highway Welcome Centers and Rest Area facilities in the Commonwealth of Pennsylvania. If that Contractor fails to effectively and responsively deliver vending machine services as stipulated in this IFB, or fails to comply with the terms and conditions as set forth in the awarded contract, the Commonwealth reserves the right to terminate the contract, for cause, and offer the contract for Interstate Highway Welcome Centers and Rest Areas vending machine services in the Commonwealth to an alternate vendor.

**Pre-Bid Questions:** Prospective Bidders should forward all questions to the IFB Point of Contact as shown on page 3 ([RA-li-OIT-BAS-Procur@state.pa.us](mailto:RA-li-OIT-BAS-Procur@state.pa.us)) by email no later than May 12, 2014 at 10 AM.

All IFB-related inquiries will be answered by posting question(s) to the FAQ section of the IFB or to the online advertisement at: [www.emarketplace.state.pa.us](http://www.emarketplace.state.pa.us) (with a notice advising that FAQ's have been attached to the solicitation) no later than May 15, 2014 at 10 AM.

Included as components of this IFB are the following:

- ATTACHMENT A: Statement of Work
- ATTACHMENT B: Contractual Requirements
- ATTACHMENT C: Pennsylvania Interstate Highway Welcome Centers and Rest Areas Site Locations
- ATTACHMENT D: Calendar of Events
  
- Exhibit I: Product Price List
- Exhibit II: Memorandum of Understanding between PA Dept. of Transportation and the Office of Vocational Rehabilitation, Bureau of Blindness and Visual Services

Vending machines covered under the contract resulting from this IFB, regardless of being owned or leased equipment, must comply with the following:

- All vending machines are, and will remain, the property and responsibility of the Contractor. The Contractor will take such action as is reasonably required for the protection of the vending machines against loss by pilferage or destruction and such other action to protect the site vending machines as is required by the Memorandum of Understanding between PA Dept. of Transportation and the Office of Vocational

Rehabilitation, Bureau of Blindness and Visual Services, included as Exhibit II to this IFB;

- The Contractor and all vending machines in Contract-covered PennDOT locations must be fully insured against loss, damage, and theft. Contractor must also be fully insured against personal injury liability associated with its vending machines and their use in the Contract-covered locations. Evidence of required insurance coverage must be presented with Bidder's response to this IFB;
- All vending machines must be maintained in proper mechanical and electrical working order at all times;
- All vending machines must be cleaned, fully stocked, secured, energy efficient, and maintained in safe and sanitary condition to the satisfaction of BBVS in compliance with prevailing laws and regulations;
- All vending machines must be Americans with Disabilities Act (ADA) compliant;
- All vending machines provided by the Contractor must be equipped with energy misers **and** non-resettable cash counters. In order that they specifically provide real time sales information to BBVS/BEP, vending machines so provided must either be outfitted with an industry-standard, web-based data format tracking system, electronic or mechanical sales tracking meters or certified manual tracking conducted on a monthly basis.

The installation and monthly monitoring costs will be borne by the Contractor.

If the Contractor elects to use a web-based sales tracking system, it shall be responsible for instructing BEP personnel in the principles and use of the Contractor's web-based data tracking system. This requirement will be accomplished by way of direct training, tutorial instruction, web-based training, or a combination of those approaches. The Contractor shall be available for system-related technical assistance throughout the term of the contract.

If the Contractor elects to use an electric or manual sales tracking meter, it must verify the accuracy of each meter reading and transmit the reading at the end of each month to the BEP contact person specified to the contractor at the time of formal notice of award.

If the Contractor elects to conduct a manual tracking of monthly, sales it must transmit the sales data for each of its vending machines monthly to the BEP contact person specified to the contractor at the time of formal notice of award. Each monthly transmittal

of manually-tracked sales data must be accompanied by the Contractor's signed certification of the data's accuracy.

- Vending machines will be equipped with dollar bill validating, coin counters, locks on doors and coin boxes. Vending machines must be capable of accepting and dispensing US dollar coins.

Vending machines not equipped and/or maintained in the manner consistent with the requirements of this IFB will be determined unacceptable. Failure to abide by the stated requirements will result in the termination of the vending machine services contract.

**Changes of product prices from those shown in Exhibit I, are not permitted without prior written consent granted by BEP, consistent with the terms and of OVR/BBVS' Memorandum of Understanding with the PA Dept. of Transportation.** If the Contractor offers a product(s) in a package size not listed in Exhibit I, the Contractor must obtain written BEP approval for the product price and continue to remit the BBVS Commission at the rate quoted in the bid.

**NOTE:** Bidder will provide separate price lists reflecting the healthy choice, nutritional foods and cold foods it will offer in covered vending machines. BEP will determine the acceptability of those proposed prices. If approved by BEP, the Bidder's proposed prices for healthy choice, nutritional food and cold foods selections will be subject to all of the terms and conditions applicable to other vended products covered by the Vending Machines Services Contract.

The percentage rate used to calculate vending machine commissions and proposed by a Bidder in response to this IFB:

- Must be consistent through the entire product price list as presented in Exhibit I;
- Will not be reduced or recalculated following the effective date of the contract resulting from this IFB.

The Contractor is encouraged to explore and suggest upgrades, additions, and improvements to each vending machine location in order to maximize profitability and commissions. As the need for changes and/or improvements to equipment is identified, the Contractor must consult with BEP about the proposed changes.

Consistent with the terms and conditions of OVR/BBVS' Memorandum of Understanding with the PA Dept. of Transportation BEP approval is required for the Contractor to change, remove, or add vending machines at any location. Such approval must be secured in writing from the BBVS/BEP Contract Manager or her/his designee. Contact information for that individual will be transmitted with the awarded contract. Written approval as prescribed must be secured prior to the proposed vending machine change, removal, or addition.

**Financial Capability:**

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Bidders must:

- Submit evidence of their company’s financial stability and economic capability to perform the contract requirements;
- Provide their company’s financial statements for the past three fiscal years, including audited financial statements and recent tax returns. Financial statements will include the company’s Balance Sheet and Income Statement or Profit/Loss Statements. Bidders should include a Dun & Bradstreet comprehensive report, if available.

If the Bidder’s company is a publicly-traded company, Bidder may provide the link to the required financial records as are available on the company website.

The Commonwealth reserves the right to request additional information it deems necessary to evaluate a Bidder’s financial capability.

A Bidder’s financial information received in response to this IFB will be retained by the Commonwealth in strict confidence and will be used only for purposes consistent with this IFB and resulting contract. Access to submitted financial information is limited to those Commonwealth employees authorized to review such material in the performance of their duties. Financial information submitted by Bidders will neither be disclosed nor otherwise made available to any parties, other than Commonwealth employees noted above, without the express written consent of the Bidder or as required by law.

**Contractor Prior Experience Submittal:**

	<b>Company Name and Address</b>	<b>Contact Information</b>	<b>Project Name</b>	<b>Project Start and End Dates</b>	<b>Brief Description of the Project</b>
<b>1</b>					
<b>2</b>					
<b>3</b>					

**Contractor Personnel and Qualifications:**

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Bidders will submit résumés for persons who will be assigned to the vending machine services contract, providing information to effectively present staff qualifications and skills required to successfully execute the vending machine contract as required by this IFB. **If a Bidder intends to use subcontractors to accomplish the work of this IFB/Contract, personnel information, as stated, regarding subcontracted personnel must accompany the Bidder’s proposal.**



### **Mobilization and Implementation Plan:**

Bidders responding to this IFB will include with their bid a Mobilization and Implementation Plan, beginning with the date of notification of contract award.

The Contractor's Mobilization and Implementation Plan must include the following elements:

- a. A detailed timetable for a mobilization and implementation period not to exceed sixty (60) calendar days beginning with the date of formal contract notification. This Plan must clearly demonstrate how the Contractor will have the contract executed and operational from the date of notification of award. A clear timetable of activities to occur during that period must be included as part of the Mobilization and Implementation Plan.
- b. The Contractor's plan for the deployment and use of management, supervisory or other key personnel during the mobilization and implementation period. The Mobilization and Implementation Plan should show all management, supervisory and key personnel who will be assigned to manage, supervise and monitor the Contractor's mobilization and implementation of the contract within the period of no more than sixty (60) calendar days from the contract award.
- c. The successful Contractor must determine the appropriate snacks, beverages and/or any other vending products required for the PennDOT sites covered by the contract. This condition will require close coordination with BEP management and PennDOT in order to ensure access can be granted to as many vending facilities as needed. A successful Contractor's Mobilization and Implementation Plan will detail how this activity is to be accomplished.

**NOTE:** An incomplete or inadequate Mobilization and Implementation Plan will cause a Bidder's submitted bid to be considered non-responsive and will be grounds for rejection of the bid. The Mobilization and Implementation Plan, when approved by the Commonwealth, will be incorporated into the awarded contract.

### **Other:**

Following the award of this contract, BBVS/BEP will notify PennDOT that a new contract has been awarded and will identify the awarded Contractor. Upon the expiration of the contract, the current Contractor will be notified that it will have thirty (30) to sixty (60) days to remove all of its vending equipment from all of the contracted vending locations then vacate the premises. Through this transition period, BEP will contact the new Contractor and arrange for services to begin as soon as the previous Contractor vacates the premises. BEP will coordinate the transition with the goal of minimizing downtime and insuring as little interruption of vending services as possible.

BEP will ensure that the Interstate Highway Welcome Centers and Rest Areas furnish all necessary water lines, plumbing, electric and electrical service connections for operation of the vending machines. The final connections of water, electric, etc., as referenced, will be made by the vending machine Contractor.

The Contractor shall provide BEP with a log-in or user account for real time access to vending machine sales information from the installed compatible web-based data format tracking system.

The Contractor shall submit quarterly commission checks with a detailed report suitable to BBVS/BEP. The report should include monthly gross sales and commissions per location per machine per month. The report shall be received by BEP no later than the 15<sup>th</sup> of the month following the end of the quarter.

## **ATTACHMENT B**

### **Contractual Requirements**

#### **A. General Requirements:**

1. Contractor shall provide automatic coin-operated vending machines for the PA Office of Vocational Rehabilitation/Bureau of Blindness and Visual Services (Issuing Office), in accordance with the provisions of this Invitation for Bid (IFB) and with such contract(s) as may result from this IFB.
2. Contractor shall provide vending machine services for the PennDOT Interstate Highway Welcome Centers and Rest Area locations as shown on ATTACHMENT C to this IFB and as may be added at later dates throughout the course of the vending machine services contract. The Issuing Office reserves the right to add/remove PennDOT Interstate Highway Welcome Centers and Rest Area locations to/from ATTACHMENT C.
3. For purposes of this IFB vending machine services shall include furnishing, installing, stocking, maintaining, servicing, repairing and/or replacing vending machines at the identified PennDOT locations.
4. Contractor shall perform all services to the sole satisfaction of the Issuing Office.
5. All vending machines shall remain the property of the Contractor. Contractor must remove all vending machines upon expiration/termination/cancellation of the contract.

#### **B. Vending Machine Specifications:**

1. Within sixty (60) days following issuance of the Notice of Award, the Contractor must install and have operational the quantity and types of vending machines as specified in this IFB. If, in the opinion of the Issuing Office, circumstances warrant changes to the quantity, types and/or specifications of vending machines, the Contractor shall make the changes as required by the Issuing Office, including removal of, addition of, or other changes to vending machines. The Contractor shall make such changes only upon receipt of written approval from the Issuing Office to do so.
2. Contractor shall install attractive new vending machines or vending machines refurbished to “like new” condition. The position of the Issuing Office as to the

acceptability of refurbished vending machines shall be final and binding on all parties.

3. All vending machines shall harmonize with the décor of the area in which it is located, if applicable.
4. All vending machines provided under the contract(s) resulting from the IFB must be of a styling that does not detract from the décor of the location(s) in which they are installed. The opinion of the Issuing Office as to the acceptability of the style of vending machines shall be final and binding on all parties.
5. The Contractor shall remove and/or replace any vending machine(s) which, in the opinion of the Issuing Office, have deteriorated to the extent that the machine(s) are not mechanically able to provide reliable service, or the exterior of which has aesthetically deteriorated to the degree that it detracts from the décor of the site in which it is located.
6. The Contractor must equip all vending machines with transaction counters that cannot be reset. The transaction counters must maintain a cumulative reading of all transactions for each vending machine in which all products are sold at the same price. For vending machines in which products are sold at different prices, the transaction counters must maintain a cumulative reading of all money accepted, less change returned. Transaction counters must be sealed and incapable of being reset without physical removal from the vending machine(s) and disassembly of the counter.
7. Title to the vending equipment required by the contract resulting from this IFB shall be held by and vested in the Contractor or the Contractor's subcontractor(s). The Commonwealth of Pennsylvania shall not be liable in the event of loss, incident, destruction, theft, damage, etc. arising out of the ownership, selection, possession, operation, control, use, maintenance, delivery, return, and/or installation of the equipment provided by the Contractor. It is the Contractor's sole responsibility to obtain insurance coverage for such loss in an amount the Contractor deems appropriate.

C. Product Specifications:

1. The Contractor must, at all times, maintain ample stock of all products dispensed and sold in the vending machines.

2. The Issuing Office, in consultation with PennDOT, shall have the exclusive right to select the kinds of products to be vended.
3. The Contractor assures that the majority of products vended under the contract resulting from this IFB are nationally advertised name brands of first quality.
4. If directed to do so in writing by the Issuing Office, the Contractor shall remove products which do not, in the opinion of the Issuing Office, meet standards as referenced.
5. If directed to do so in writing by the Issuing Office, the Contractor shall furnish additional products in contract-covered vending machines as customer demands change and new products become available.
6. The Contractor must mark all perishable food products with a clearly visible expiration date, and must immediately replace all products that have expired.
7. The Contractor shall furnish all supplies necessary for customers using contract-covered vending machines including, but not limited to:
  - a. Condiments: Salt and pepper packets, mustard packets, ketchup packets, etc.
  - b. Paper Products: Napkins, beverage cup lids, straws, etc.
  - c. Utensils: Plastic knives, forks, spoons, soup spoons, etc.

D. Specific Personnel and Service Requirements:

1. The Contractor shall provide names and telephone numbers of service personnel to vending location managers or to others who oversee operation of the vending site(s) in order that machine malfunctions or problems may be reported immediately.
2. The Contractor shall provide names and telephone numbers of service personnel to the Issuing Office contact person, or to other Issuing Office staff as may be designated in the contract resulting from this IFB.
3. The Contractor shall provide a trained, experienced route service/sales person for the vending machine services covered by this IFB. That person must have relevant knowledge, skills and abilities to provide effective and efficient vending machine support and service.

4. The Contractor agrees that each time vending machines are restocked, serviced, or otherwise attended by the Contractor, the Issuing Office representative, or designee, may conduct a vending count to record the number of products in the vending machines prior to and following any restocking/servicing.
5. The Contractor is responsible for customer refunds. A uniform system of refunding money, acceptable to the Issuing Office, must be in operation at all times, including, but not limited to, the visible posting of easily understood refund instructions for the customers, envelopes and/or other supplies as may be needed to facilitate the customers' request for refund and prompt remittance of customers' refunds.
6. The Contractor shall visibly post instructions for customers to report vending machine malfunctions.
7. The Contractor's service employees shall wear distinguishable uniforms/attire, including clearly visible name badges, while working at the contract-covered vending machine locations.

The Contractor will provide service employees with company identification cards. Service employees shall present their company identification card to the PennDOT location manager upon request.

8. The Contractor's service employees shall comply with requirements of vending site location management regarding the stocking/servicing of the vending machines.
9. The Contractor shall be responsible for obtaining security background checks for all personnel, including subcontracted personnel, engaged in the servicing of, or support for, covered vending machines. The Contractor is responsible for all costs associated with the security background checks.
10. The Contractor must dispose of waste and maintain vending machines in compliance with standards of health and sanitation required by federal, state and local law or regulation.
11. The Contractor will ensure that the area around the vending machines is clean and maintained in an orderly fashion to include, but not be limited to, removal of their trash, garbage and debris.

The Contractor agrees to move vending machines every six (6) months for ventilation and floor cleaning. The Contractor and the Interstate Highway Welcome Centers and Rest Areas site management will coordinate that activity.

A record reflecting performance of the prescribed maintenance/cleaning activities will be maintained by the Contractor and provided to BEP as part of the next Quarterly Contract Report due following the activity.

Any failure on the part of the Contractor to immediately advise BEP of its inability to satisfy the referenced maintenance services or accomplish these services in the required time allotted will constitute a breach of contract enforceable through cancellation of the contract.

12. Within twenty (20) days of notification of award, the Contractor shall submit to the Issuing Office the name, title, address and telephone number of one individual within its organization as the Contractor's designated representative.

Unless otherwise directed by the Contractor, that designee will be the person to whom the Issuing Office will direct all correspondences, official notifications, requests and miscellaneous communication related to the Contractor's performance under the vending machine services contract. The Contractor may change or substitute the designated representative as determined necessary, providing the Issuing Office prompt notification of such change.

E. Accounting Requirements:

1. On a quarterly basis commencing ninety (90) days after the valid date of the vending machine services contract, the Contractor shall return to the Issuing Office a percentage commission of the total gross sales from all contract-covered vending machines.

Total gross sales is defined as the total invoice value of vending machine sales **before** deducting sales tax, customer discounts, returns, allowances or other expenses.

Commissions stipulated in the contract resulting from this IFB shall be calculated monthly, with the cumulative three-month total commissions submitted to the Issuing Office with the quarterly report. Said commissions shall be accompanied by a detailed fiscal report reflecting each individual month's vending machine gross receipts upon which the Contractor's quarterly commission payment is calculated.

Quarterly reports shall include an accurate Profit and Loss Statement reflecting the period covered by the report.

Commissions and corresponding fiscal reports shall be presented to BEP on a quarterly schedule commencing, as noted, ninety (90) days after the valid date of the contract. Simultaneously, a copy of the Contractor's quarterly fiscal report, presented on an Excel spreadsheet(s), shall be transmitted to BEP via e-mail.

2. The Contractor's quarterly report shall include each machine's identification number, product, and the beginning and ending readings on the machine's transaction counter(s).
3. The Contractor's quarterly reports shall be accompanied by the accurate commission payment that corresponds to the reported quarter.
4. The Contractor shall submit required quarterly commission payments in the form of a certified check, cashier's check, or money order.

Commission payment checks/money orders will be made payable to the Commonwealth of Pennsylvania – BBVS Business Enterprise Program. Commission payment checks will be annotated showing the vending machine contract number and the beginning and ending dates of the reported quarter's commission.

5. The Contractor shall be responsible for sales tax and shall not deduct such tax from the commissions paid to the Issuing Office.
6. The Contractor shall use generally accepted accounting principles (GAAP) as promulgated by the American Institute of Certified Public Accountants in maintaining its fiscal records as related to the vending machine services contract awarded through this IFB.

F. Liquidated Damages:

1. The Contractor agrees and understands that the provision of vending machine services in accordance with the requirements and delivery date(s) stated in this IFB and in the resulting vending machine services contract is considered critical to the efficient operation of the Issuing Office.



Accordingly, should the Contractor fail to comply with the requirements and delivery date(s) stipulated in this IFB, and its resulting vending machine service contract, the Contractor shall pay for liquidated damages, as identified below:

- a. In the event the Issuing Office does not receive the correct commission payment within fifteen (15) calendar days following the end of the reporting quarter, the Contractor shall be assessed liquidated damages in the amount of one-half percent (1/2%) of the total commission payment due for each day that the commission payment is late.
- b. The Contractor agrees and understands that such liquidated damages shall be paid by the Contractor as a direct payment to BEP in the form of a certified check, cashier's check or money order.

The payment instrument used to make payment for liquidated damages shall be annotated with the number of the vending machine services contract and the reference, "Payment for Liquidated Damages."

- c. The Contractor agrees and understands that all assessments of liquidated damages shall be within the discretion of the Issuing Office and shall be in addition to, not in lieu of, the rights of the Commonwealth of Pennsylvania to pursue other appropriate remedies.
2. The Contractor shall not charge more than the prices listed on Exhibit I for each respective product, unless such increases are approved, in writing, by the Issuing Office prior to the increase and on a product-specific basis.
  3. If requested by the Issuing Office, the Contractor shall appear at a specified location and open any or all vending machines and permit the Issuing Office and/or its designee to count and determine the amount of money in any and/or all vending machines at that location. The Issuing Office shall give a minimum four (4) hour notice of each such inspection.
  4. The Contractor agrees that the Issuing Office and/or its designee may audit, examine, and/or copy any and all books, records and information relating to the operation of vending machines covered by the vending machine service contract.
  5. The Contractor shall retain and maintain all records for a minimum of five (5) years or until audited by the Issuing Office, whichever occurs first.

6. Any breach of contract duties or failure by the Contractor to perform contract duties as set forth in the vending machine services contract, including such duties and responsibilities as set forth in OVR's Memorandum of Understanding with the PA Dept. of Transportation shall entitle the Issuing Office to perform any or all of the following as determined to be in the best interests of the Commonwealth of Pennsylvania:

- a. The Issuing Office shall cancel the contract by providing the Contractor with written notice of such cancellation. If appropriate, and at the sole discretion of the Issuing Office, the Contractor may be provided one opportunity to correct the breach within a reasonable period of time as determined by the Issuing Office.

Should the Issuing Office exercise its right to cancel the contract, such cancellation shall become effective on the date as specified in the written notice of cancellation sent to the Contractor.

- b. The Issuing Office shall recover from the Contractor a commission payment equal to the agreed-upon percentage of gross sales from all covered vending machines during the contractual quarter in which the Contractor breach/failure occurred. Said commission payment, and any other outstanding payments due BEP at the time of breach/failure, shall be remitted in full no later than fifteen (15) calendar days following discontinuance of the Contractor vending machine services.

In the event the Issuing Office does not receive the correct payment within fifteen (15) calendar days following discontinuance of the Contractor vending machine services, the Contractor shall be assessed liquidated damages in the amount of one-half percent (1/2%) of the total payment due for each day the payment is late.

A final report, including a complete financial accounting of the Contractor's vending machine services activities shall be sent to BEP, with a simultaneous Excel spreadsheet copy transmitted via e-mail, no later than thirty (30) days following discontinuance of the Contractor vending machine services.

- c. The Issuing Office shall assess fines commensurate to other contract violations as are identified in the OVR/BBVS Memorandum of Understanding with the PA Dept. of Transportation, incorporated into the Interstate Vending Machine Services Contract as Exhibit II.

7. The Contractor must have and maintain a "Dishonesty Bond" in the minimum amount of \$25,000.

8. The dishonesty bond shall cover any loss caused to the Issuing Office and/or PennDOT through any fraudulent or dishonest act or acts committed by the Contractor or any of the Contractor's employees or subcontractors, acting alone or in collusion with others.
9. The dishonesty bond shall cover the Commonwealth of Pennsylvania and the Pennsylvania Department of Transportation as additional insured parties.
10. No later than twenty (20) calendar days after notification of award of contract, the Contractor shall submit the dishonesty bond or proof of such coverage to the Issuing Office.
11. If, throughout the life of the contract, the Contractor commits no dishonest acts in the execution of said contract, then the Issuing Office will return the dishonesty bond to the Contractor.

G. Other Contractual Requirements:

1. The contract expresses the complete agreement of the parties and shall be governed solely by the specifications and requirements contained in that document.
2. Contract Amendment - Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representatives of the Issuing Office and the Contractor prior to the effective date of such modification. The Contractor expressly and explicitly understands that no other method and/or no other document, including acts or oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.
3. Contract Period – The original contract period shall be as stated on page one of the IFB. The contract shall not bind, nor suggest to bind, the Commonwealth of Pennsylvania or the Contractor for any contractual commitment in excess of the original contract period. The Issuing Office has the right, at its sole option, to renew the contract for two additional one-year periods, or any portion thereof.

Should the Issuing Office exercise that right all terms and conditions, requirements and specifications of the original contract shall remain the same and apply during the renewal period.

4. Renewal Periods – Should the Issuing Office exercise the right of contract renewal, the Contractor agrees that the rate of percentage commission shall be the same as shown in the original contract.
5. Transition – Upon expiration, termination or cancellation of the contract, the Contractor shall assist the Issuing Office to ensure an orderly transfer of responsibility and/or the continuity of those services required under the terms of the contract to a successor organization designated by the Issuing Office. The Contractor shall provide and/or perform responsibilities as follows:
  - a. Continue to deliver any part or all of the vending machine services in accordance with the terms and conditions, requirements and specifications of the contract for a period not to exceed sixty (60) calendar days after the expiration, termination or cancellation date of the contract for the percentage commission set forth in the contract.
  - b. If the Contractor's assistance in the transition of vending machine services is not requested, the Contractor shall discontinue providing vending machine orders or accepting new assignments under the terms of the contract on the date specified by the Issuing Office in order to ensure the completion of such service prior to the expiration of the contract. The Contractor will have a thirty (30) to sixty (60) day period to remove all of its vending equipment from all of the contract-covered vending machine locations then vacate those premises.
6. Insurance – The Contractor must acquire and maintain adequate liability insurance in form(s) and amount(s) sufficient to protect the Commonwealth of Pennsylvania, its agencies, its employees, its customers and the general public against such loss, damage and/or expense related to the Contractor's performance under the contract. Such insurance shall include the Commonwealth of Pennsylvania and the Pennsylvania Department of Transportation as additional insured parties.
7. Authorized Personnel – The Contractor shall employ or subcontract with personnel authorized to work in the United States in accordance with all applicable federal and state laws.

If the Contractor is found to be in violation of this requirement or of applicable state, federal, and local laws or regulations, and if the Issuing Office has reasonable cause to believe that the Contractor has knowingly employed or subcontracted with persons who are not eligible to work in the United States, the Issuing Office shall have the

right to cancel the contract immediately without advance notice and without incurring penalty or recourse.

The Contractor agrees to fully cooperate with any audit or investigation by federal, state or local law enforcement agencies related to this requirement.

8. Contractor Status – The Contractor shall represent himself/herself to the general public as an independent contractor offering vending machine services through a contract with the Commonwealth of Pennsylvania and shall not represent himself/herself, or his/her employees, to be an employee of the Commonwealth of Pennsylvania or of the Pennsylvania Department of Transportation.

The Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the Commonwealth of Pennsylvania, its agents and employees harmless from and against any and all loss; costs (including attorney fees); and damage of any kind related to such matters.

9. Property of State – All documents, data, reports, supplies, equipment and accomplishments prepared, furnished or completed by the Contractor pursuant to the terms of the vending machine services contract shall become the property of the Issuing Office. Upon expiration, termination or cancellation of the contract such items shall remain the property of the Issuing Office.
10. Confidentiality – The Contractor understands that all discussions with the Contractor and all information gained by the Contractor resulting from the Contractor's performance under the Contract shall be confidential.

No reports, documentation or material prepared as required by the vending machine services contract shall be released to the public without prior written consent of the Issuing Office.

11. Contractor Equipment Use – Title to any equipment required by the vending machine services contract shall be held by and vested in the Contractor.

The Commonwealth of Pennsylvania shall not be liable in the event of loss, incident, destruction, theft, damage, etc. for the Contractor's equipment including, but not limited to, devices, wiring, software, etc.

It is the Contractor's sole responsibility to obtain insurance coverage for such loss in an amount the Contractor deems appropriate.

The Commonwealth of Pennsylvania is not responsible for any liability incurred by the Contractor, the Contractor's employees or subcontractors arising out of the ownership, selection, possession, leasing, rental, operation, control, use, maintenance, delivery, return, and/or installation of equipment provided by the Contractor.

## ATTACHMENT C

### Interstate Highways Vending Machine Sites

SITE NUMBER or LETTER	DISTRICT	COUNTY	ROUTE	LOCATION
E	1-4	Mercer	I-80 EB	.5 miles east of the Ohio line
40	5-1	Carbon	I-80 EB	1.75 miles east of Exit 274
G	8-3	Franklin	I-81 NB	1 mile north of Maryland line
J	8-4	York	I-83 NB	2.5 miles north of Maryland line
B	9-4	Fulton	I-70 WB	1 mile west of Maryland line
3	9-4	Fulton	I-70 EB	2.5 miles east of Exit 151
	5-1	Berks	I-78 EB	2 miles east of Exit 19
P	6-1	Bucks	I-95 SB	0.5 miles south of NJ/PA Line
N	6-3	Delaware	I-95NB	0.5 miles north of DE/PA Line
F	5-4	Monroe	I-80WB	NJ/PA Line
41	5-4	Monroe	I-80EB	1 mile east of I- 380 & I-80

<b>SITE NUMBER or LETTER</b>	<b>DISTRICT</b>	<b>COUNTY</b>	<b>ROUTE</b>	<b>LOCATION</b>
K	4-4	Pike	US 6/209	1 mile west of NY/PA Line
61	4-4	Pike	I-84EB	6 miles east of Exit 20
62	4-4	Pike	I-84WB	1 mile west of Exit 26
H	4-5	Susquehanna	I-81SB	0.5 miles south of NY/PA Line
56	4-5	Susquehanna	I-81SB	0.5 miles south of NY/PA Line



## ATTACHMENT D

### Calendar of Events

The Commonwealth will make every effort to adhere to the following schedule:

Activity	Responsibility	Date
Deadline to submit Questions via email to _____ <a href="mailto:RA-li-OIT-BAS-Procur@state.pa.us">RA-li-OIT-BAS-Procur@state.pa.us</a> . Please have subject read <b>Interstate Bid Question</b>	Contractor	5/12/2014 at 10 AM
Submit Bidder questions by posting an FAQ to the IFB. Pertinent or material changes will be posted on the solicitation of the Pa supplier portal, ( <a href="http://www.pasupplierportal.state.pa.us">http://www.pasupplierportal.state.pa.us</a> ), no later than this date.	Issuing Office	5/15/2014 at 10 AM
Bidder will monitor PA Supplier Portal <a href="http://www.pasupplierportal.state.pa.us">http://www.pasupplierportal.state.pa.us</a> website for all communications regarding the IFB.	Contractor	ongoing
Bidder will submit Electronic Bid Proposal to the Issuing Office online than at: PA Supplier Portal <a href="http://www.pasupplierportal@state.pa.us">http://www.pasupplierportal@state.pa.us</a>	Contractor	5/22/2014 at 10 AM submission deadline
Projected Contract effective date will depend on final Commonwealth Approval. Bid Tab and Award will be posted to: <a href="http://www.emarketplace.state.pa.us">www.emarketplace.state.pa.us</a>	Contractor	TBD

## Exhibit I

### PRODUCT PRICE LIST (CURRENT 3/31/2014)

<u>Product</u>	<u>Price</u>
Soda (12 oz. Can)	\$1.25
Soda (20 oz. Bottle)	\$2.00
Juice/bottled (12 oz. to 20 oz.)	\$2.25
Bottled Water (16 oz to 20 oz.)	\$1.50
Hot Drinks (8 oz.)	\$1.00
Hot Drinks (12 oz.)	\$1.25
Vitamin Water	\$2.00
Gatorade/Powerade	\$1.75
Energy Drinks (8 - 12 oz.)	\$2.50
Energy Drinks (16 oz.)	\$3.50
<u>Snack products:</u>	
Chips, Pretzels, RSS (RSS to 1 oz.)	
Party Mix, Popcorn, Chex Mix,	\$ .75
Doritos, Fritos, Cheetos (LSS over 1oz.)	\$1.10
Beef Jerky	\$2.00
6-pk Crackers/Cheez-its, Cookies,	\$ .75
Cookies(Bag over 2 oz.)	\$1.50
Peanuts (1oz)	\$ .75
Peanuts (over 1oz)	\$1.50
Nuts (cashews, pistachios 1 oz.)	\$1.00
Nuts (cashews, pistachios, etc. Over 1oz)	\$1.75
Combos	\$1.25
Granola/Fruit Bars	\$1.00
Candy, Chocolate Bars (RSC)	\$1.25
Candy King Size or larger	\$2.00
Cakes/Pastries/Pop Tarts	\$1.50
Cereal Snack Pouches	\$1.00
Gum	\$ .75
Gum, Large Size	\$1.75
Life Savers / Breath Mints	\$ .75
Mints (Tic Tac, etc.), Large Size	\$1.50
Halls	\$1.25
Protein Bars	\$3.25
Hot Foods	\$4.00
Ice Cream Products	\$1.75

**NOTE:** Bidder will provide separate price lists reflecting the healthy choice, nutritional foods and cold foods it will offer in covered vending machines.

BEP will determine the acceptability of those proposed prices. If approved by BEP, the Bidder's proposed prices for healthy choice, nutritional food and cold foods selections will be subject to all of the terms and conditions applicable to other vended products covered by the Vending Machines Services Contract.

Exhibit II

AGREEMENT NUMBER BBVS0307VM  
PENNDOT FID NO. 23-6003105  
LABOR & INDUSTRY FID NO. 23-6003107

MEMORANDUM OF UNDERSTANDING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF LABOR AND INDUSTRY  
AND  
DEPARTMENT OF TRANSPORTATION

THIS MEMORANDUM OF UNDERSTANDING, made this 25<sup>th</sup> day of February, ~~2002~~ by and between the Pennsylvania Department of Labor and Industry, hereinafter referred to as "L & I", Bureau of Blindness and Visual Services, hereinafter referred to as "BBVS",

and

the Pennsylvania Department of Transportation, hereinafter referred to as "PENNDOT".

WHEREAS, Sections 501 (71 P.S. § 181) and 502 (71 P.S. § 182) of the Administrative Code of 1929 require Commonwealth departments and agencies to coordinate their work and activities with other Commonwealth departments and agencies; and,

WHEREAS, PENNDOT is the designated state agency responsible for managing the safety roadside rest areas/welcome centers and BBVS is responsible for the placement of vending facilities pursuant to the Surface Transportation Assistance Act of 1982; the Surface Transportation and Uniform Relocation Assistance Act of 1987; and the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. § 111) (collectively, Federal Transportation Acts); and,

WHEREAS, BBVS has awarded contracts for vending facilities at the safety roadside rest areas/welcome centers (where the welcome center is in the same building as the rest area) along or adjacent to highways within the Commonwealth, hereinafter referred to as "rest area"; and,

WHEREAS, the Randolph-Sheppard Act (20 U.S.C § 107 et seq.) establishes a vending facility program to provide qualified blind persons with remunerative employment; and,

WHEREAS, BBVS is the state agency pursuant to the Randolph-Sheppard Act (20 U.S.C, § 107, et seq.) and the Little Randolph-Sheppard Act (71 P.S. 580.11, et seq.) to provide vocational rehabilitation services to blind persons and to promote employment opportunities for blind persons; and,

WHEREAS, BBVS and PENNDOT, by the Memorandum of Understanding, hereafter referred to as "MOU", seek to fulfill the requirements of the Federal Transportation Acts by BBVS' receiving the proceeds generated, less PENNDOT'S expenses, in order that BBVS can meet its responsibilities under the Randolph-Sheppard Act.

NOW, THEREFORE, the parties to this MOU set forth the following as the terms and conditions of their understanding.

**PART A. PENNDOT RESPONSIBILITIES**

1. PENNDOT will manage the rest areas. In this capacity, PENNDOT will be responsible, inter alia, for the selection of the appropriate sites for the location of vending and newspaper machines. All vending machines will be placed inside the buildings and all newspaper machines will be placed outside the buildings as directed by PENNDOT.
2. PENNDOT will allow use of existing utilities at each site for the installation and operation of the vending machines provided that such does not effect the normal and customary operation of the site. Any additional utilities needed to install the vending machines or alteration of existing utilities are contingent upon PENNDOT's approval and all costs for the additional utilities shall be paid by BBVS.
3. PENNDOT will set the number of machines that may be placed at each site, including, but not limited to, vending machines and newspaper racks. If BBVS constructs its own facilities, BBVS will be permitted to set its own standard for each rest area in consultation with PENNDOT.
4. Distribution of news publications and promotional materials and similar activities shall be in accordance with PENNDOT's Standards for the Distribution of Promotional Materials and News Publications at State Highway Rest Areas and Welcome Centers, attached as Addendum A and made part of this MOU.
5. PENNDOT will provide appropriate vending area signage along interstate highways at its expense.

6. PENNDOT will forward any customer comments to BBVS for review and or response.
7. PENNDOT will perform quality assurance evaluations and forward the results to L & I. Failure to pass a quality assurance evaluation will not result in PENNDOT's assessing a fine to BBVS. However, BBVS will take corrective action as provided in Part B. PENNDOT will establish quality assurance factors and rating criteria and may revise the factors and rating criteria at its own discretion.
8. PENNDOT will not charge BBVS for costs related to sewage and water, but retains the right to negotiate for these costs and submit a monthly invoice, if applicable.
9. PENNDOT will not be responsible for damages related to any criminal acts or misconduct at the sites. PENNDOT will not be responsible for providing security of the vending machines and environs. BBVS, with the approval of PENNDOT, may add security of the vending machines and environs at BBVS' expense.
10. PENNDOT may close a rest area because of road construction, renovations, repairs, civil unrest, terrorist threat, emergency evacuation, accident or any other cause it deems reasonable.
11. PENNDOT provides a "Coffee Break" program to civic organizations at the sites on Memorial Day, Independence Day, Labor Day and Thanksgiving. PENNDOT will limit the "Coffee Break" program to the aforementioned holiday periods. PENNDOT provides a "Tourism Week Promotion" at welcome centers the first week of each May. PENNDOT may provide food and beverage for both the "Coffee Break" and "Tourism Week Promotion" time periods.
12. Rest area attendants will notify the vendor, through the vendor supplied toll free phone number, of a machine maintenance need, repair or vandalism. The attendants will not perform any maintenance or troubleshooting activities, other than placement of an "Out of Order" sign.

**PART B.**

**BBVS RESPONSIBILITIES**

- i. BBVS will award and administer the vending machine contracts.
- ii. BBVS will coordinate the installation and operation of the vending machines with PENNDOT's Engineering District and Bureau of Office Services personnel and the vendor.

- iii. BBVS will notify PENNDOT of contracts, addenda and vendor changes within thirty (30) days of the date BBVS is first aware of the aforementioned.
- iv. BBVS will limit vending sales to food and beverage items, unless PENNDOT approves sales of non-food items.
- v. BBVS will submit to PENNDOT for approval the price established of each vended item, based upon prevailing costs of similar items in the area, which is listed in the bid documents. PENNDOT reserves the right to adjust prices for just cause. All price changes from the bid documents will be submitted to PENNDOT in writing for approval prior to the change occurring. BBVS may assess a fine of \$100 per day per occurrence against a vendor who implements price adjustments without PENNDOT's prior written approval.
- vi. ~~BBVS will ensure vending is maintained at all sites. Machines will be refilled daily from April 1<sup>st</sup> through September 30<sup>th</sup>. From October 1<sup>st</sup> through December 31<sup>st</sup> the frequency shall be every other day and from January 1<sup>st</sup> through March 31<sup>st</sup> the frequency shall be every third day.~~ Maintenance includes, but is not limited to, providing refund slips and instructions for their use; supplying lids and lid holders on machines; removing out-of-date product; cleaning the inside and outside of machines during each refill visit; using standard industry practices when refilling machines: e.g. assuring product will dispense properly, cold beverages come out first, hot beverages are at proper temperature, etc. All machines will be bolted together to preclude tipping. Additionally, all machines will be moved and the area cleaned twice a year.
- vii. BBVS will be responsible for all related security costs. Any security implementation shall be approved by PENNDOT.
- viii. BBVS will be responsible for any damage caused by the installation, operation, maintenance or removal of the vending machines. Aesthetic attachments, such as canopy or false front used to improve the appearance or security of the items and to protect the machines, will be first approved by PENNDOT.
- ix. BBVS will take corrective action to resolve all failed quality assurance evaluations performed by PENNDOT.
- x. BBVS will assure that all trash and debris from the site that is created by the general operation and maintenance of the vending machines is removed from the site by the vendor. Trash will not be placed in the rest area receptacles or dumpsters. Trash includes, but is not limited to, boxes, cartons, crates, coffee grounds and filters, machine parts, cans, bottles and any other refuse stemming from the servicing of the machines. Failure to comply will result in the assessment of a \$100 fine per occurrence against the vendor.

- xi. Service vehicles may not be parked on the sidewalks or in the handicap parking zone or backed into stalls. Any driver parked in the handicap parking zone will be assessed a \$100 fine per occurrence by BBVS. In addition, State Police may issue a citation to drivers illegally parked.
- xii. Vendors will have a toll free telephone number available for the rest area attendants to call to report malfunctions, security concerns and or service. Vendors will repair within 3 hours or replace within 24 hours all malfunctioning or damaged machines after being notified of the damage or malfunction, regardless of how the damage or malfunction occurred. Machines not repaired or replaced within the above conditions will be assessed a \$100 fine per occurrence.
- xiii. BBVS will reimburse PENNDOT for monthly costs within ten (10) working days of the invoice date.
- xiv. BBVS will maintain vending at all rest areas/welcome centers in accordance with the contract dates.
- xv. BBVS may construct, maintain and operate separate vending facilities at its cost and with approval from PENNDOT.
- xvi. Vending machine energy conservation technology should be incorporated with all vending machine placements where feasible. All new machine placements should incorporate conservation technology which monitor's compressor run time and display lighting. Where vending machine utility usage is paid for by site owner (no compensation made by vending machine owner) a stand-alone energy conservation device should be installed by vending machine owner.

**C. MISCELLANEOUS PROVISIONS**

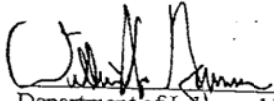
- 1. This MOU replaces in its entirety the Memorandum of Understanding No. 462691, dated September 19, 2002.
- 2. This MOU is not intended to and does not create any contractual rights or obligations with respect to the signatory agencies or any other parties.
- 3. Both parties may initiate amendments to this MOU. Such amendments must be in writing and will become part of the MOU upon full execution by both parties, their legal counsel and agency comptrollers.
- 4. Any disputes arising hereunder will be submitted to the Office of General Counsel for final resolution.
- 5. In no event will either PENNDOT or BBVS be liable for any incidental, consequential or direct damages (including, but not limited to, damages

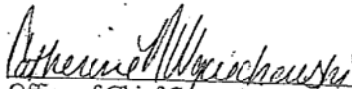
for loss of profits, business interruption and the like) arising out of the use or inability to use vending services unless these damages have been specifically designated in this MOU or any amendments to it.

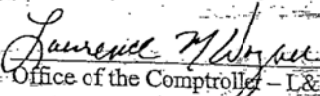
6. Neither PENNDOT's nor BBVS' failure to insist upon or enforce strict performance of any provision of this MOU will not be construed as a waiver of any provision or right under this MOU. Neither the course of conduct between parties nor trade practice will act to modify any provision of this MOU.
7. If any provision of this MOU is held invalid, the remainder of this MOU will also be rendered invalid.
8. This MOU may be terminated by either party with ninety days written notice.
9. This MOU sets forth the entire understanding between parties and no representations, undertakings or conditions not contained herein will modify these terms.

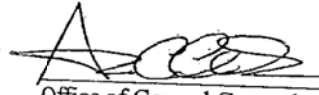


The parties hereby acknowledge the foregoing as a Memorandum of the terms and conditions of their understanding.

 12/13/07 Michael Charron 12-20-07  
Department of Labor and Industry Date Department of Transportation Date  
Bureau of Blind and Visual Services

 12-14-07 Michael R. Oline  
Office of Chief Counsel - L&I Date Office of Chief Counsel - PennDOT Date 1/3/08  
8/2/19/08

 2/25/08 Richard C. Tyley II 2/25/08  
Office of the Comptroller - L&I Date Office of the Comptroller - PennDot Date

 1-11-08  
Office of General Counsel Date

Addendum A

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

Standards for the  
Distribution of Promotional Materials and News Publications at  
State Highway Rest Areas and Welcome Centers

I. Introduction

The Department of Transportation is responsible for developing and maintaining highway rest areas, including welcome centers, to serve the traveling public and to promote Pennsylvania tourism. The Department is committed to providing services at rest areas that, consistent with the law, preserve the purposes of the facilities and protect their esthetic features. Accordingly, the Department has promulgated the following standards to ensure that the distribution of promotional materials and news publications and any similar activities are limited to those that the Department determines are necessary for and do not interfere with the rest, relaxation, comfort, convenience, and information needs of motorists and tourists.

II. Definitions

A. **Official travel and tourism literature.** Publications and materials produced, sponsored, or adopted by the Department or its agent for the purpose of promoting Pennsylvania tourism and economic development or for otherwise meeting the information needs of motorists and tourists.

B. **Promotional materials.** Brochures, pamphlets, leaflets, coupon books, guide books, maps and similar materials promoting accommodations, attractions, dining, nature and outdoors, shopping, visitor services, and similar activities of interest to the traveling public.

C. **News publications.** Newspapers intended to convey news and information of general public interest, including advertising.

III. Policy

A. **Official travel and tourism literature.** The Department or its agent may distribute official travel and tourism literature in any manner that the Department determines is consistent with the purpose of the facilities.

B. **Promotional materials and news publications.** The Department will permit the distribution of promotional materials and news publications only in compliance with the rules and regulations for use of rest areas and welcome centers and only when they meet the following standards.

C. **Other materials and publications.** Any other distribution of materials or publications, whether for profit or nonprofit purposes, is inconsistent with the purpose of the facilities.

#### IV. Standards

A. **Distribution of promotional materials.** All promotional materials must be approved by the Pennsylvania Tourism Office as beneficial and informative for the traveling public and in compliance with the following standards. Approval and placement of materials shall be on a first-come, first-served and space-available basis:

1. The materials must be provided to the Department or its agent for distribution free of charge; however, the Department or its agent may charge a fee to cover the administrative costs of the program.
2. The Department or its agent shall have the discretion to determine the appropriate marketing strategy for each rest area and to stock the materials accordingly.
3. The Department or its agent will place the materials at such locations and in such racks as are designated for such purpose.
4. The materials must be sized and constructed to fit the racks provided.
5. The materials must substantially promote Pennsylvania tourism and not the expression of ideas or points of view.
6. The materials may not contain language or depictions or promote activities that are obscene, offensive, or are otherwise inappropriate for the general traveling public.
7. The materials may not promote activities that are limited by membership fee or other means of exclusive admission and that are not open to the general public.

B. **Distribution of News Publications.** The Department or its agent will approve the distribution of news publications on a first-come, first-served and space-available basis in accordance with the following standards:

1. News publications must be distributed from vending newsracks.
2. Space is limited to three newsracks per facility.
  - a. One newsrack will be available for a national daily newspaper.
  - b. One newsrack will be available for a local or regional daily newspaper.
  - c. One newsrack will be available to another general-interest news publication, provided that the Department or its agent determines that market demand justifies another publication and that the safety, accessibility, and esthetics of the facility will not be impaired.
3. Where more than one news publication is under consideration for a newsrack, consideration will be given to paid circulation volume.

4. The Department must approve the location and manner of installation of the newsracks, which shall be outside the enclosed vending area of the facility.
5. The newsracks must be of standard size and must not require an external power source for operation.
6. The publisher or its agent must agree to be responsible for the cost of the purchase, installation, and maintenance of the newsracks and to pay a fee for each newsrack based on the Department's administrative expenses.
7. The publisher or its agent must agree to such other standard terms and conditions as the Department determines are necessary to protect its interests, to meet legal requirements, and to preserve the purpose of the facilities.

**V. Prohibition**

Any other distribution of literature, publications, or other written materials is prohibited, unless the distribution was approved in writing prior to the adoption of these standards and provided that such non-conforming activity shall not continue after the term of the approval or one year from the effective date of these standards if the approval had no fixed term.

Approved:

*Rina Custer*

Title:

*Deputy Secretary, Administration*

Date:

*11/13/07*