

The NFBEI Blitz

December, 2013 – January, 2014

Since the last issue of The Blitz, we’ve celebrated the holidays. Already, January has come and gone. We’ve learned a new term – polar vortex. We’ve seen an exciting football season come to an end with everyone except Florida State and the Seahawks saying “Wait til next year.” And we’ve seen peace and tranquility in the Randolph-Sheppard Program. Change that. We thought things would be quiet in Randolph-Sheppard but it has been anything except quiet. In fact, the year is off to a fast and frantic start. Take a deep breath and see what all is happening.

**Hey VA We’re Not Going Away** – The NFBEI’s efforts to bring the Department of Veterans Affairs into compliance with the Randolph-Sheppard Act have been well chronicled in prior issues of The Blitz. Our commitment to bring the VA into compliance with the Randolph-Sheppard Act continues in earnest. In January we met with high ranking officials with the VA to discuss the issues. Among the issues we identified were:

* The VA’s inappropriate application of the 100 employees / 15,000 square feet minimum requirement in order for the R-S priority to kick in;
* The VA’s assertion that the R-S priority only applies to buildings accessed by the public;
* The Veterans Canteen Service operating vending in non-patient facilities;
* The failure of the VA to allow the establishment of R-S vending facilities in the large medical centers including 3 new ones under construction;
* The refusal of the VA to abide by arbitration decisions; and,
* The apparent refusal of the VA to consult with RSA before issuing new guidance on the Randolph-Sheppard Program to its field staff.

It would be misleading to say we resolved all of the issues but there was a commitment by the VA officials with whom we met to continue dialogue and future meetings are being scheduled. It should also be noted that we continue to try to bring political pressure on the VA. We have been successful in getting a Tennessee Congressman to weigh in on an issue in his district, and Oregon vendors are soliciting help from their Congressional delegation on a case where the SLA won in arbitration but the VA refuses to abide by the decision. Future more focused political strategies are in the works. It is worth noting that the development of a new policy directive is the direct result of the advocacy efforts of the NFBEI. Now, we just need to try to make sure it is better than the current one and is compliant with the Randolph-Sheppard Act.

**Going Back to School – An Exciting New Partnership with Hadley Announced –** The Hadley School for the Blind and the NABM/NFBEI have formally announced an exciting new partnership that will bring on-line training to blind entrepreneurs. The partnership features two distinct offerings. The Entrepreneur of Excellence Program will allow blind entrepreneurs to take specified business related courses on-line. Entrepreneurs will be able to complete courses that have been specially designated for this program and once all courses and modules have been successfully completed, the blind entrepreneur will be certified by NABM as an Entrepreneur of Excellence. These entrepreneurs will be recognized at BLAST or at the NABM annual meeting held in conjunction with the National Federation of the Blind’s Convention. Entrepreneurs of Excellence need not be present at theses two events to receive certification. A second component of the partnership is what we are calling “Randolph-Sheppard on the Web.” The NFBEI / NABM will be conducting a series of webinars on issues of importance to Randolph-Sheppard vendors. The first webinar will be held at 2:00 PM Central Time on February 20 and will focus on Social Security Disability. To learn more about this partnership and to enroll visit [www.hadley.edu/nabm](http://www.hadley.edu/nabm). If you experience challenges during your online registration process you can reach Hadley Student Services at 800-526-9909. The courses are designed to be taken online.

**Harnessing the Power - New Buying Group Exceeding Expectations -** For years, we have been talking about harnessing the buying power of all blind vendors nationwide and the new RSA Buying Group is allowing us to do just that. Although the NABM and NFBEI have no formal ties to the buying group, we wholeheartedly support it and are excited about what it means for blind entrepreneurs in this country. What does it mean? The answer is money and lots of it in some cases. Rebate checks were issued in January for the third quarter of last year. A total of approximately $185,000 in rebate dollars was sent out to Randolph-Sheppard entrepreneurs. In the third quarter, only 528 entrepreneurs were enrolled. That number has since swelled to 1,050 so even more money will be sent out next time. Plus, Pepsi and Coca-Cola rebates will also be included on future checks. It is not unrealistic to think that over $2 Million in rebates will be distributed annually to blind entrepreneurs. Is that exciting or what? We love it when blind guys are making money. Have you heard the saying “the check is in the mail?” Well, with the RSA Buying Group, you don’t have to worry with snail mail or wondering if your check will ever arrive. E-checks are being utilized. That means your check is emailed to you. You get it instantly. Then you can simply print it out and take it to the bank or better yet email it to your bank for deposit. That doesn’t mean that traditional checks are not still an option for those who so choose. If you are not enrolled in the buying group, you are leaving money on the table. Contact John Murn at [JMurn@rsabuyinggroup.com](mailto:JMurn@rsabuyinggroup.com). You must be sure to provide your name, address, and account numbers for Pepsi, Coca-Cola, and other major suppliers. If all information is not provided, you cannot receive the rebates.

**Can Anyone Tell Me What Makes a Cafeteria?** – There obviously is no clear-cut answer to this question and it keeps rearing its ugly head. An arbitration panel is considering this question in a case involving Fort Campbell. Florida may be pursuing arbitration to answer that question at Tyndall Air Force Base. The Arizona SLA has sought clarification from RSA on the question as it applies to Luke Air Force Base. We are now hearing that the Department of Defense may be approaching RSA about once again trying to develop regulations around this question. This is somewhat of a scary proposition considering the failed Joint Policy Statement of a few years ago, developed without input from Randolph-Sheppard community which we believe was not consistent with the Randolph-Sheppard Act. The NFBEI is not opposed to regulations being promulgated. However, these regulations must be consistent with the law and not limit opportunities the way the Joint Policy Statement would have done. We continue to educate RSA on this issue with the hope progress can be made on resolving the dispute.

**More Conversations with AbilityOne** – When the NFBEI met with RSA Commissioner Janet LaBreck in November, she asked that we set up a meeting with AbilityOne. The Commissioner wanted to better understand the conflict between the JWOD Program and Randolph-Sheppard. Her hope was to find common ground. We met and follow up meetings are planned. We are exploring possibilities for collaboration. We will be sharing more about these efforts in the future.

**Say What? NISH Wants to Talk** – The folks at SourceAmerica (formerly known as NISH) have reached out to us to have dialogue. We were surprised by the gesture and readily accepted the invitation. We met with them in January and I must admit we approached the meeting very cautiously, as I’m sure they did as well. The meeting was surprisingly positive and it was agreed that follow-up meetings will be held. We talked about ways Randolph-Sheppard and SourceAmerica can work together. We discussed our legislative proposal that would require that AbilityOne award a certain percentage of new contracts to companies owned by people with disabilities rather than non-profit agencies. These ideas will be discussed in more detail at our next meeting. We are not so naïve as to believe that we can resolve all of our differences. We are not willing to agree to ideas that are not in the best interest of blind entrepreneurs. However, the time for dialogue is a longtime overdue. We will never resolve our differences if we are not talking and trying to better understand each other. In my view, the meeting was historic. It was perhaps the first time the two sides have sat down and had a real conversation. We need to see where those conversations lead. Look for more in the next issue of The Blitz.

**The Mint Really is Worth a Mint –** The NFBEI has been working with the Colorado BEP in its pursuit of the gift shop at the U.S. Mint in Denver. This retail store clearly falls under the Randolph-Sheppard priority; however, the Mint is not cooperating arguing that it is not a food establishment. We submitted a Freedom of Information Request for information about sales at the facility and now fully understand why the Mint is so reluctant to issue a permit to the SLA. There are significant dollars being generated in that facility and we believe they should be earned by a blind entrepreneur. There is a similar gift shop at the Mint in Philadelphia and the Colorado and Pennsylvania agencies have been sharing information. The NFBEI is urging both states to file for arbitration. RSA would probably roll them into one hearing. Stay tuned.

**Maryland Arbitration Cases Against GSA Move Forward –** The Maryland BEP is moving forward with two arbitrations that will be of interest to other states. In one, the federal agency is moving from one building to another. The SLA is arguing that the permit states that the federal entity must pay for the relocation. GSA argues that the language in the permit does not apply to moves of this nature since it is essentially a new facility. This is one to watch. In the second case, GSA bid out a cafeteria in the Social Security office but indicated that the SLA would not be afforded a priority. GSA indicated that the SLA only gets a priority if its bid is within the competitive range and since no competitive range was going to be established, there was no priority. That is a most interesting interpretation of the law. We believe the SLA’s case is very strong especially since its proposal was rated as “Acceptable” by the raters. The NFBEI did intervene with GSA on the SLA’s behalf on this one but to no avail. We will have to let the attorneys battle it out.

**RSA Shockingly Denies South Carolina’s Request for Arbitration –** In what can only be described as a surprising move, RSA has uncharacteristically denied South Carolina’s petition to convene an arbitration panel to resolve its dispute with the Army over the Nutrition Care Contract. You may recall that is the contract whereby a contractor will provide cafeteria services in 8 Army hospitals in 8 different states. The NFBEI worked with the 8 states involved to agree to have one SLA submit a bid for all 8 hospitals. That state is South Carolina. The Army indicated that it would not grant a priority to the SLA so South Carolina filed for arbitration. However, RSA ruled that the matter was not ripe for appeal since the contract had not been awarded and there had been no determination as to whether or not the SLA’s bid was in the competitive range. We disagreed with RSA’s decision. In fact, we think it is a direct violation of the law and we wrote RSA urging them to reverse the decision and convene the panel. To date, there has been no response.

**NFBEI Training Prompts Creation of National Attorney Network –** Many of you may remember or perhaps even attended the attorney training conducted by the NFBEI and NCSAB in November of 2012 in Philadelphia. It was an extremely successful training with over 30 states represented. As a result of that training, a national network of state attorneys was created. These attorneys have regularly scheduled conference calls that focus on important topics in vocational rehabilitation and Randolph-Sheppard. In December, Terry Smith was asked to present to the group. Some had expressed interest in having another attorney training and this was discussed on the call. They discussed it again on their January call and formally asked that additional training be provided. In addition to Randolph-Sheppard, they want some VR topics as well. The NFBEI has committed to making this training available in conjunction with BLAST in November in Austin, Texas. We will also be conducting BEP staff training like we did in Indianapolis. Look for more on this training in future issues of The Blitz.

**Randolph-Sheppard Loses Fort Dix** – The New Jersey SLA lost its bid for the troop dining contract at Fort Dix where Harry Eberle (the blind vendor) teamed with Blackstone Consulting. We hate to see Randolph-Sheppard lose any contract because it means one less opportunity for a blind person. Concerns were raised about possible improprieties in the bidding process; however, it looks like it was primarily a pricing issue. We are hopeful the SLA will be able to regain that contract when the solicitation is issued for the new contract after this bridge period is over.

**Fallon Changing Over** – Keeping with the bad news theme, the Nevada SLA has been notified that the Navy is terminating the contract for troop dining at Fallon Naval Air Station. From what we’ve been able to learn, the Navy is closing the galley completely and going to an alternative approach to feeding troops. We are not sure what that alternative will look like. There is some talk of the officers club providing the service. There is some talk of meal tickets that can be used at fast food restaurants on the base. At this point, we just don’t know but we are monitoring the situation closely and are prepared to offer appropriate technical assistance as necessary.

**Oklahoma Makes Pitch for Prison Commissaries –** Terry Smith recently traveled to Oklahoma to attend a meeting between the BEP and the Department of Corrections to discuss the inmate commissaries. The timing of the meeting was interesting as a new Director of Corrections was being hired. We had to meet with the staff attorney and another management person. Ideas were discussed but not much progress was made. We were told that DOC does not plan on soliciting bids for the service which is now operated in-house. The BEP is nonetheless still interested in having further discussions once the new director is onboard. The NFBEI is very interested in seeing one of our states crack the prison commissary barrier. When one state is successful, we think others will follow.

**The Long and Winding Road: Highway Bill Due for Reauthorization –** There is really no news with respect to the Surface Highway Transportation Act which must be reauthorized this year. A bill must be finalized by September 30 when the current law expires. To date, we’ve heard no talk of any potential provisions to commercialize the interstate rest areas like we saw last time. But it is early in the game and we can’t let our guard down. We will continue to monitor developments with the bill as it moves forward.

**RSA to Fill Randolph-Sheppard Specialist Position** – RSA is moving forward with plans to fill the Randolph-Sheppard Specialist position which became vacant when Dan Frye left to become Executive Director of the New Jersey Commission for the Blind. Commissioner Janet LaBreck is personally interviewing candidates and promised to hire someone with enthusiasm and a passion for the program. We are aware of most of the candidates and are confident that a capable person will be in place very soon. In fact, we are expecting an announcement in February.

**On the Road Again** – Tis the season for annual statewide vendor meetings. These meetings get underway in force in February and we are already planning on attending and presenting at several. Over the next 3 months we are already scheduled to present in South Carolina, Idaho, New Jersey, Alaska, Maryland, and Tennessee. Several others are in discussions. If your state has set a date for its annual meeting, please send that information to Terry Smith. Even if we are not participating, we like to know when the meetings are taking place. If you want us to present, we need to get your meeting on our calendar.

**HR 1719 Could Be a Threat to the Vending Industry** - In the last issue of The Blitz, we mentioned HR 1719 which was intended to reduce the cost of manufacturing pennies and nickels. We indicated that the bill could have far reaching implications for the vending industry since all coin mechanisms would have to be retooled. We are now hearing some staggering figures as to the cost to the vending industry if this bill passes. The bill would presumably save the federal government $24 Million. However, the cost to Coca-Cola alone would be $120 Million to retool all of their machines. The total cost to the vending industry as a whole is unimaginable. The cost to many BEP’s could be devastating. At this point, the bill doesn’t appear to have any momentum but we will continue to monitor.

**NAMA Needs You and You Need NAMA** – As time goes on, we realize that Randolph-Sheppard is part of a much bigger picture. We are just a small part of the huge vending and food service industries in this country. The issues that affect private vending companies affect blind entrepreneurs. The National Automated Merchandising Association (NAMA) represents the interests of the vending industry nationally and there are state associations that do the same thing on the state level. NABM President Nicky Gacos serves on NAMA’s Government Operations Committee and is helping build a bridge between NAMA and blind entrepreneurs so that we can help NAMA with their issues and they can blind entrepreneurs with theirs. It is important that blind entrepreneurs join NAMA and get involved in the state affiliates. Serve on committees and get on their boards. It will help you stay current and will help you increase your political clout. You owe it to yourself and to your program.

**New BEP Director in Nevada –** Drazen Elez was recently promoted to the position of Chief of Business Enterprises of Nevada. Welcome aboard Drazen and good luck. By the time the next issue of The Blitz comes out in two months, we will hopefully be able to announce the new directors in Delaware, Mississippi, and California.

**Sustaining the NFBEI –** Do you like what the NFBEI is doing to advocate for the program on a national level and to assist individual state programs? If so, we can use your financial support. If you would like to contribute to the cause, we would welcome your donation. You can send a check made out to NABM and note in the memo portion of the check that it is for the NFBEI. Checks can be mailed to:

National Association of Blind Merchants

1837 S Nevada Ave.

PMB 243

Colorado Springs, CO 80905

Almost half of our funding comes from state agencies who take advantage of our membership / subscription service. In 2013, 19 states participated. You can help ensure our future funding by encouraging your state to join in. A recommendation from the Elected Committee of Blind Vendors would carry a lot of weight in a state’s decision. Remember, a state can use set aside dollars, state or highway unassigned funds, and/or federal dollars to pay for the membership / subscription service.

So, what do you think? Was it a busy two months or what? Things never slow down in the world of Randolph-Sheppard. But part of that is our fault. We are out there making sure things are happening and we plan on continuing to do that.

Terry Smith, Business Opportunity Specialist

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