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**James F. Lane,**

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## DEPARTMENT OF EDUCATION

### Lowering the Per-Unit Acquisition Cost for Equipment Acquired by State Licensing Agencies for the Benefit of the Randolph-Sheppard Vending Facility Program

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Department of Education (Department) is implementing an exception, approved by the Office of Management and Budget (OMB), to lower the per-unit acquisition cost for equipment acquired by State licensing agencies (SLAs) for the benefit of the Randolph-Sheppard Vending Facility Program (RSVFP). The per unit acquisition cost is lowered from the current \$5,000 or the capitalization level established by the non-Federal entity for financial statement purposes to “equal or exceed the lesser of \$1,000 or the capitalization level established by the non-Federal entity for financial statement purposes.”

**DATES:** *Applicable date:* October 1, 2022.

**FOR FURTHER INFORMATION CONTACT:** David Steele, U.S. Department of Education, 400 Maryland Avenue SW, Room 5157, Potomac Center Plaza, Washington, DC 20202-2800. Telephone: (202) 245-6520. Email: [David.Steele@ed.gov](mailto:David.Steele@ed.gov).

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#### **SUPPLEMENTARY INFORMATION:**

#### **Uniform Guidance Exception Granted**

On July 27, 2022, the Department requested an exception from OMB under 2 CFR 200.102(a) and (c) to adjust the requirements under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) definition of “equipment” at 2 CFR 200.1 for a class of non-Federal entities. Specifically, the Department requested

the limited exception, solely for equipment acquired by the SLA for the benefit of the RSVFP, to lower the per-unit acquisition cost threshold from the current \$5,000 or the capitalization level established by the non-Federal entity for financial statement purposes to “equal or exceed the lesser of \$1,000 or the capitalization level established by the non-Federal entity for financial statement purposes.” On September 2, 2022, OMB approved the exception and notified the Department. The exception is applicable only to equipment the SLA acquires under section 3(3) and section 7(c) of the Randolph-Sheppard (R-S Act) and under section 103(b)(1) of the Rehabilitation Act of 1973 (Rehabilitation Act) for the benefit of the RSVFP.

This notice announces the lowering of the per-unit acquisition cost for equipment acquired by SLAs for the benefit of the RSVFP. This change is effective for SLAs on October 1, 2022 and applies to all equipment, acquired with either R-S Act set-aside funds under 34 CFR 395.9(b) or State Vocational Rehabilitation Services (VR) program funds (both Federal and non-Federal) under section 103(b)(1) of the Rehabilitation Act and 34 CFR 361.49(a)(5), satisfying the lower per-unit acquisition cost on or after that date. VR agencies need to ensure that prior approval is obtained for items meeting the revised equipment threshold in accordance with 2 CFR 200.407. RSA will provide training opportunities to States, as necessary, on the implementation of the exception.

#### *Background*

The R-S Act, which authorizes the RSVFP, enhances employment opportunities for individuals who are blind by designating SLAs to train and license them to operate vending facilities (e.g., vending machines, cafeterias, snack bars) on Federal and other property.

VR agencies that provide services to the blind serve as SLAs for purposes of administering the R-S Act and the RSVFP. Pursuant to section 103(b)(1) of the Rehabilitation Act, VR agencies may use Federal VR program funds for the ongoing acquisition of equipment and the purchase of initial stocks and supplies during the blind vendor’s first six months of operation (see also 34 CFR 361.49(a)(5)). Specifically, Federal VR program funds, as well as some non-Federal funds used for matching purposes, may be used to acquire equipment throughout the operation of the vending facility. However, Federal VR program funds, as well as non-Federal funds used for matching

purposes (except for set-aside and Federal vending machine income funds), may be used on initial stocks and supplies only during the first six months of a vending facility’s operation (34 CFR 361.49(a)(5)(ii)). The VR agency acting as the SLA under the R-S Act has the authority to spend the Federal vending machine income and set-aside funds under 34 CFR 395.9(b) on the maintenance, replacement, and purchase of equipment; however, there is no authority to spend these funds on supplies at any point during the operation of the vending facility.

Based on the provisions in 2 CFR part 200, “supplies” are those items that fall under the \$5,000 per-unit capitalization threshold identified in the definition of “equipment” (2 CFR 200.1). In the absence of a statutory or regulatory definition of “equipment” in the Rehabilitation Act or the R-S Act, RSA has relied on the definition in the Uniform Guidance at 2 CFR 200.1, which requires equipment to have a per-unit cost of either \$5,000 or exceed the State’s capitalization threshold, whichever is lower.

The capitalization threshold has a direct effect on the classification of items as “equipment” or as “supplies,” and thus, what funds can be used for its purchase and when such funds may be used.

The Uniform Guidance threshold of \$5,000 became an issue as SLAs and blind vendors initiated the process of reopening vending facilities in the wake of extended closures caused by the COVID-19 pandemic and identified the need to repair/replace or purchase new commercial appliances. For blind vendors to operate a vending facility, SLAs are required to purchase commercial appliances needed to operate that vending facility, including, but not limited to, vending machines, commercial coffee makers, freezers, beverage dispensers, and cash registers, because these commercial appliances remain at the facility regardless of the vendor placed by the State to operate the facility. In many instances, these commercial appliances do not meet the Uniform Guidance definition of “equipment,” because the per-unit cost is less than \$5,000. These items typically cost between \$1,000 and \$4,999 per item. Under the current definition of “equipment,” these costs would generally be considered supplies and would not be allowable purchases for the RSVFP with VR Federal grant funds and non-Federal matching funds, except during the first six months of the operation of any vending facility, and Federal vending machine income and levied set-aside funds can never be used

for the purchase of supplies. The inability of SLAs to provide commercial appliances needed by blind vendors for the operation of vending facilities as “equipment” prevents States from fulfilling one of their crucial responsibilities under the RSVFP program and prevents them from expending funds as Congress anticipated under the program.

Realizing the effect of the Uniform Guidance definition of equipment on the SLA’s ability to purchase needed commercial appliances and supplies over \$1,000 for blind vendors in the RSVFP, States brought this issue to RSA’s attention in 2021, asking for flexibility to purchase such items with VR funds and Federal vending machine income and levied set-aside funds that could be used as non-Federal match for the VR funds. Blind vendors already had reduced income, or no income due to facility closures because of the pandemic and were not able to absorb these additional costs with their own income, nor was that the intent of the RSVFP.

In response to the RSVFP blind vendor needs, the Department requested an exception on July 27, 2022, from OMB, under 2 CFR 200.102(a) and (c), to adjust the requirements under the Uniform Guidance definition of “equipment” at 2 CFR 200.1 for the benefit of the RSVFP. Specifically, the Department requested the limited exception, solely for equipment acquired by the SLA for the benefit of the RSVFP, to reduce the per-unit acquisition cost threshold from the current \$5,000 or the capitalization level established by the non-Federal entity for financial statement purposes to “equal or exceed the lesser of \$1,000 or the capitalization level established by the non-Federal entity for financial statement purposes.”

As stated above, OMB granted the exception on September 2, 2022, and the exception will take effect October 1, 2022, for all equipment satisfying the lower per-unit acquisition cost acquired by the SLA with either RSVFP levied set-aside or Federal vending machine income funds or VR program funds (both Federal and non-Federal).

**Accessible Format:** On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotope, or compact disc, or other accessible format.

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**Katherine Neas,**

*Deputy Assistant Secretary, Delegated the authority to Perform the functions and duties Of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.*

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## DEPARTMENT OF ENERGY

### Civil Nuclear Credit Program: Draft Guidance for the Second Award Period

**AGENCY:** Grid Deployment Office, Department of Energy.

**ACTION:** Notice of availability of draft guidance; request for comments.

**SUMMARY:** The U.S. Department of Energy (DOE) invites public comment on its draft Guidance for the Second Award Period for the Civil Nuclear Credit (CNC) Program authorized under of the Infrastructure Investment and Jobs Act (IIJA). The draft Guidance describes the timelines, deliverables, and other program requirements for owners or operators of eligible nuclear reactors that are projected to cease operations due to economic factors to submit certification applications to become certified, and instructions on formulating and submitting sealed bids to receive credit allocations.

**DATES:** Comments regarding this draft Guidance must be received on or before November 4, 2022.

**ADDRESSES:** Interested parties may submit comments by any of the following methods:

1. *Email:* [rji-cnc@nuclear.energy.gov](mailto:rji-cnc@nuclear.energy.gov) (*Strongly Preferred*). Submit electronic comments in Microsoft Word or PDF file format and avoid the use of special

characters or any form of encryption. Please include “Response to Notice of Availability” in the subject line.

2. *Online:* Submit electronic public comments to [www.regulations.gov](http://www.regulations.gov). Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

**Instructions:** All submissions received must include the Department of Energy as the agency name for this document. No facsimiles (faxes), postal mail, or hand deliver/courier will be accepted. Any information that may be business proprietary and exempt by law from public disclosure should be submitted as described.

**FOR FURTHER INFORMATION CONTACT:** For more information regarding the CNC Program draft Guidance please contact Kelly Lefler, (202) 586–4316, [rji-cnc@nuclear.energy.gov](mailto:rji-cnc@nuclear.energy.gov).

### SUPPLEMENTARY INFORMATION:

#### Background

Section 40323 of the Infrastructure Investment and Jobs Act (IIJA), Public Law 117–58, codified at 42 U.S.C. 18753, directs the Secretary of Energy to establish a CNC Program to evaluate and certify nuclear reactors that are projected to cease operations due to economic factors and to allocate credits to selected certified nuclear reactors via a sealed bid process.

DOE is seeking public comment on the draft Guidance for the CNC Program’s second award period, found at <https://www.energy.gov/gdo/civil-nuclear-credit-second-award-cycle>. The draft Guidance describes the program eligibility and certification criteria and bid submission requirements, including the certification and bidding processes.

#### Business Proprietary Information

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