

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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NASHVILLE, TENNESSEE 37243-0497

August 17, 2001

Opinion No. 01-128

Applicability of the Blind Vendors Program, Tenn. Code Ann. §§ 71-4-501, *et seq.*, to municipalities

**QUESTIONS**

1. Do local municipalities have a legal right to issue a Request for Proposal for commissary services? If so, how does the Department's preference for blind vendors offset this right?
2. What is inclusive in the term "vending facility?" Specifically, does the term include inmate trust fund accounting systems?

**OPINIONS**

1. Property owned or leased by a local municipality is subject to the provisions of Tenn. Code Ann. §§ 71-4-501 through -508, which require the municipality to give preference to blind vendors in operating vending facilities. By statute, the Department of Human Services is responsible for selecting vendors to operate the vending facilities.
2. The Department of Human Services administers the statutory program that gives blind vendors priority in operating vending facilities on public properties. The Department's responsibilities include the selection of vendors. To the extent that a municipality desires that a vendor have the capability to manage inmate trust fund accounting systems, the municipality should contact the Department of Human Services.

**ANALYSIS**

1. Pursuant to Tenn. Code Ann. §§ 71-4-501 through 71-4-508, blind individuals are entitled to a preference in the operation of vending facilities on public property in Tennessee (the "Blind Vendors Program"). " 'Public property' means all property owned or leased by: the state of Tennessee, any county, municipality, or any other entity which is created by act of the general assembly to perform any public function." Tenn. Code Ann. § 71-4-502(4). Therefore, regardless of how a municipality makes other purchases, the Blind Vendors Program governs the purchase of commissary services on property that is subject to the program.

The Tennessee Department of Human Services administers the Blind Vendors Program and,

accordingly, handles the selection process for vendors of commissary services. Tenn. Code Ann. § 71-4-502(2). In general, the Department has the “right of first refusal and the exclusive right” to the operation of any vending facility on public property it determines is capable of being operated by licensed blind vendors. Tenn. Code Ann. § 71-4-502(3). *See also* Tenn. Code Ann. § 71-4-503(a). Upon exercising its priority to establish a vending facility, the Department provides “the necessary alterations, plumbing and electrical services, the necessary equipment, merchandise, a licensed or temporary manager, and the appropriate supervision of the manager.” Tenn. Code Ann. § 71-4-503(b). To select the vendor, the Department sends bid announcements for a particular vending facility to all licensed blind vendor managers within the State. Tenn. Comp. R. & Reg. § 1240-6-3-.07(1) (Aug. 1998). An interviewing panel ultimately meets with the most senior-ranking licensed vendors who have submitted bids and selects one of these vendors to run the facility. Tenn. Comp. R. & Reg. § 1240-6-3-.07(2) (Aug. 1998).

In sum, property owned or leased by a municipality, including jails and correctional centers, is subject to the Blind Vendors Program. If the Department of Human Services determines that a vending facility at the property is capable of being operated by a blind vendor, the Department equips the facility and selects the vendor. Consequently, if property is subject to the Blind Vendors Program, a local municipality that owns the property is not directly involved in the vendor selection process.

2. Your second question asks whether the term “vending facility” includes the term “inmate trust fund accounting systems.” In response to our request for clarification of this question, your office referred us to the Shelby County Attorney’s Office. An assistant county attorney in that office rephrased the question generally as follows: Can Shelby County require as a bid specification that a vendor of commissary services have the capability to manage the jail’s or correctional center’s inmate trust fund accounting system?

As discussed earlier, the Department of Human Services administers the Blind Vendors Program. The Department’s responsibilities include, among others, equipping the facility for service and selecting the vendor. Neither the statutes nor the regulatory rules that govern the Blind Vendors Program mention whether a blind vendor at a commissary must have the capability to manage inmate trust fund accounting systems. In light of the Department’s broad responsibilities, it is this office’s opinion that the Department has the discretion either to provide itself or require the successful vendor to have the necessary computer software to manage inmate trust fund accounting systems. Accordingly, Shelby County probably should discuss the possibility of this requirement with the Department of Human Services.

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