Program Evaluation

KENTUCKY DEPARTMENT FOR THE BLIND INTERSTATE VENDING PROGRAM

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The Program Review and Investigations Committee is a 16-member bipartisan committee. According to KRS Chapter 6, the Committee has the power to review the operations of state agencies and programs, to determine whether funds are being spent for the purposes for which they were appropriated, to evaluate the efficiency of program operations and to evaluate the impact of state government reorganizations.

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Requests for review may be made by any official of the executive, judicial or legislative branches of government. Final determination of research topics, scope, methodology and recommendations is made by majority vote of the Committee. Final reports, although based upon staff research and proposals, represent the official opinion of a majority of the Committee membership. Final reports are issued after public deliberations involving agency responses and public input.

FOREWORD

In December 1991, the Program Review and Investigations Committee directed its staff to examine the interstate vending program of the Kentucky Department for the Blind. This report was adopted by the Program Review and Investigations Committee on September 14, 1992, for submission to the Legislative Research Commission.

The report is the result of dedicated time and effort by the Program Review staff and secretaries, Susie Reed and Jo Ann Blake. Our appreciation is also expressed to the Executive Director and staff of the Department for the Blind, the National Federation of the Blind, the Kentucky Council for the Blind, the Kentucky Committee of Blind Vendors, the Secretary and staff of the Transportation Cabinet, and the State Budget Director and staff of the Governor's Office for Policy and Management, and to all other persons interviewed for this study.

Vic Hellard, Jr.
Director

Frankfort, KY
June, 1994

LEGISLATIVE RESEARCH COMMISSION

State Capitol Frankfort, Kentucky 40601 502-564-8100

TRANSMITTAL MEMORANDUM

TO: The Honorable Brereton C. Jones,
The Legislative Research Commission,
and Affected Agency Heads and Interested Individuals

From: Senator Susan Johns, Chair
Representative C. M. "Hank" Hanock, Vice-Chair
Program Review and Investigations Committee

Date: September 14, 1992

Re: Kentucky Department for the Blind
Interstate Vending Program

Attached are the final report and recommendations of a study of the interstate vending program operated by the Kentucky Department for the Blind directed by the Program Review and Investigations Committee. The Committee's staff gathered data by examining state and federal law, and interviewing government officials, advocates, blind vendors and officials from other states. In addition, staff performed cost-benefit analyses of the existing commercial vendor program and a possible blind vendor program. Staff also examined options for switching to a blind vendors program.

The main issue is whether blind vendors or a commercial vendor should operate the vending facilities at the 27 interstate rest areas. Both approaches are legally acceptable and currently in use in other states. Some advocates for the blind vendor community maintain that blind vendors should operate these generally lucrative interstate sites.

Currently, the Department for the Blind operates a blind vendor program, the Kentucky Business Enterprise Program (KBEP) program. Through the KBEP, 72 blind vendors are employed at 56 locations on federal and state property. However, Quatros Incorporated, a commercial vendor, operates the interstate vending facilities.

The Department for the Blind receives commissions from the commercial vendor that generate up to $1.4 million federal dollars. Extending the KBEP program to the interstate rest areas would provide employment and income to a group of blind vendors. However, this change would greatly reduce federal funds available for general blind services and increase costs to the general taxpayer. KBEP vendors could help compensate for this loss of federal dollars by agreeing to pay a higher set-aside.

The Committee recommended that the Department for the Blind and the blind vendor community develop a viable plan to permit blind vendors to bid on all or part of the interstate locations. This plan should be formulated prior to the expiration of the contract with the present commercial vendor. Additionally, the plan cannot result in a loss of federal funds or the necessity for more state dollars. A second recommendation requires that the internal audit of the commercial vendor be conducted annually in compliance with the contract.

For additional copies of this report, or in the event of questions, please contact Joseph Fiala, Ph.D., LRC Assistant Director, Office for Program Review and Investigations.

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KENTUCKY'S INTERSTATE VENDING PROGRAM

The federal Surface Transportation Assistance Act of 1982 allows states to operate vending sites at interstate rest areas. The law also gives priority to operate these sites to state agencies in charge of blind vendors through the Randolph-Sheppard Act. The Department for the Blind (DFB) is Kentucky's agency in charge of blind vendors. The DFB entered into an agreement with the Transportation Cabinet allowing vending at the interstate rest areas and subsequently employed a commercial vendor through competitive negotiations.

Some advocates for the blind maintain that blind vendors should operate the interstate vending sites in Kentucky. In 1984, the Department had considered an interstate vending program for blind vendors but construction and operating costs were too high. Instead, the Department agreed with the Transportation Cabinet to use a commercial vendor that would cover some of the startup costs.

The commercial vendor approach is a legally acceptable approach. The Rehabilitation Services Administration, the federal agency that oversees the DFB under the Randolph-Sheppard Act, approves the use of commercial vendors. A majority of states also use this approach.

The current commercial vendor pays a 15.4 percent commission on gross sales to the DFB. All the commissions go to the Department's Business Enterprise Program (KBEP), which helps provide self-employment for blind vendors on federal and other property. These commissions are expected to reach $500,000 per year in FY 1993. Also, the commissions can generate up to $1.8 million per year in federal matching funds for the DFB to spend on vocational rehabilitation services.

Employing blind vendors at interstate vending sites is potentially as viable as using a commercial vendor. But, employing blind vendors to operate these sites as the KBEP currently does would result in net losses to general blind services and costs to taxpayers.

RECOMMENDATION 1: Develop a Viable Interstate Vending Program for Blind Vendors

The DFB and blind vendor community, in conjunction with members of the general blind community should develop a viable plan, prior to the renewal of the current commercial contract, to permit blind vendors to bid for all or part of the existing vending sites. This plan should not result in a loss of federal funds and should not require more General Assembly funds.

Both the 1985 and the 1992 contracts with the vending company require an annual internal audit of the commercial vendor paid for by the vendor. According to the Department, only two audits have been conducted since 1985. The audits cover the following periods:

1) July 1987 -- June 1988, (dated October 5, 1988).

2) July 1988 -- September 1990 (dated February 19, 1991).

Another internal audit is currently in progress.

RECOMMENDATION 2: Ensure Contract Compliance With Annual Internal Audit Requirement.

The Department for the Blind and the Transportation Cabinet should ensure that the required internal audit of the commercial vendor is conducted annually at the end of the federal fiscal year.

CHAPTER I

INTRODUCTION

The federal Surface Transportation Assistance Act of 1982 allows states to operate vending facilities on interstate highways. The revenues from the vending machines must be used to provide funding for the state's licensing agency under the Randolph-Sheppard Act (in Kentucky, the Department for the Blind's Business Enterprise Program (KBEP)). The Randolph-Sheppard Act is designed to provide self-employment opportunities for the blind by giving them priority to operate vending sites on federal and other property. In Kentucky, the Department for the Blind administers two vending programs: the KBEP and the interstate vending program. By agreement with the Transportation Cabinet, the Department has contracted with a commercial vendor to operate 27 interstate vending sites. In return, the commercial vendor pays the Department commissions that help to fund vocational rehabilitation programs for the blind.

Some advocates for blind persons claim that blind vendors should operate vending facilities on interstate highways. The disagreement concerning who should run the vending sites has existed since the interstate vending program first began in 1985. In October 1991, a few months before the latest contract was awarded to a commercial vendor, some blind vendors demonstrated at the interstate rest areas.

This study addresses the following 3 questions:

1. Is the use of a commercial vendor a legal and acceptable approach?
2. Is the use of a commercial vendor in line with legislative and executive intent?
3. Is Kentucky's program operated in a manner which benefits the blind?

To answer these questions, Program Review staff examined applicable state and federal law and performed cost-benefit analyses of both the existing commercial vendor program and a possible blind vendor program. Staff interviewed government officials, advocates, blind vendors and officials from other states. Finally, because an interstate vending program operated by blind vendors is also a viable and legal approach, staff examined options for switching to a blind vendor program.

CHAPTER II

HISTORY AND BACKGROUND OF THE PROGRAM

The Kentucky Department for the Blind (DFB) administers two separate vending programs that exist under two separate federal statutes. First, the Kentucky Business Enterprise Program (KBEP), authorized by the Randolph-Sheppard Act, trains and enables licensed blind vendors to operate cafeterias, vending machines and snack bars on federal and other property. Second, the interstate vending program, authorized by the Surface Transportation Assistance Act of 1982, allows vending at interstate highway rest areas.

Both programs are designed to benefit the blind; however, in Kentucky, they operate in different ways. The KBEP helps blind vendors to become self-supporting by setting them up in small businesses. The interstate vending program generates commissions from a private company that are used to fund the KBEP vendors and to provide funds for vocational rehabilitation services.

The Randolph-Sheppard Act Provides Self-Employment for the Blind

The primary purpose of the Randolph-Sheppard Act, 20 U.S.C. 107 (1936, as amended in 1974), is to provide self-employment opportunities for the blind by giving blind vendors a priority in the operation of vending facilities on federal and other property. On the state level, the Kentucky Department for the Blind serves as the state licensing agency for the act. The state licensing agency issues licenses to blind persons for the operation of vending facilities and operates the KBEP. In Kentucky, this federal statute has resulted in the employment of 72 blind vendors, who operate 56 vending facilities through the KBEP.

The KBEP performs the following services for blind vendors: 1) Finds and establishes new vending locations; 2) Pays the costs of setting up new locations, including initial stock; 3) Provides counseling, training and management assistance; and 4) Provides free repair and replacement of all vending machines. In return, the vendor pays a 5% set-aside to the DFB on net income.

The Transportation Act Allows Vending at Interstate Rest Areas

The Surface Transportation Assistance Act of 1978 authorized a demonstration project to determine the viability of vending facilities on the interstates. Kentucky was one of five states that participated in this pilot project. The vending facilities proved to be a benefit to the traveling public, as well as an economic benefit to the states. Because of this success, the Surface Transportation Assistance Act of 1982 (23 U.S.C. 111 (1983, as amended in 1987)), established vending on the interstate highways in all 50 states.

The 1982 transportation act allows the states to permit vending at interstate rest areas. No other form of commercialization is allowed on the interstates. Only the states have the authority to operate the vending facilities, and they must give priority to vending machines that are operated through the state licensing agency designated under the Randolph-Sheppard Act. In Kentucky this agency is the Department for the Blind.

CHAPTER III

INTERSTATE VENDING PROGRAM IN KENTUCKY

The interstate vending program began in 1984. Although Kentucky had been involved in the demonstration project from 1978 to 1982, the Transportation Cabinet refused to allow interstate vending in 1983. In April 1984, the Transportation Cabinet and the Department entered into an agreement that allowed vending at the interstate highway rest areas. This agreement called for a two-year contract with a commercial vendor and included a two-year renewal option. In 1985, the Finance and Administration Cabinet awarded the contract, through competitive negotiation, to Quatros Incorporated. This contract had a four-year duration with a two year renewal option. In December 1991, a new competitive negotiation contract was awarded to Quatros for the same duration. For a chronological history of this contract, see Appendix A.

Currently Quatros operates 27 interstate vending sites and pays a 15.4% commission on gross receipts to the DFB (See Map 3.1 for the location of these sites). The commissions generated from the interstate program are used to fund the KBEP program and to provide part of the seed money for a federal formula grant for vocational rehabilitation. These federal dollars are in turn used as a major source of funding for the Department's General Blind Services Program, as well as the KBEP.

The vending contract is designed to ensure that all of the state's facilities are uniform in the services they provide. The major provisions of the interstate vending contract are as follows:

- ° Specifies number and type of machines at each rest area;
- ° Requires internal audit system for each machine;
- ° Requires contractor to maintain an accounting and record-keeping system;
- ° Requires 24-hour servicing of machines;
- ° Requires trained, uniformed custodial personnel on duty from 10:30 p.m.--6:30 a.m. for each rest area, and supervisory personnel; and
- ° Requires annual audit of sales, paid for by the contractor.

The night time custodians are the only benefit for the Transportation Cabinet. According to a former Transportation Cabinet official, the presence of these custodians has lowered the incidents of vandalism and other illegal activity at the rest areas.

Map

The Legality of Kentucky's Use of a Commercial Vendor

Two interpretations of the language in the federal transportation statute exist. Some advocates for the blind claim that the statutory language requires the operation of the interstate vending machines by licensed blind vendors. Advocates insist that even if the Department is not violating the letter of the law, it is violating the spirit of the law. On the other hand, the Department maintains that using a commercial vendor is a valid option to implement this program.

Federal Law Allows the Use of Commercial Vendors

The federal transportation act states that "in permitting the placement of vending machines, the State shall give priority to vending machines that are operated through the state licensing agency designated pursuant to ... the Randolph-Sheppard Act."

The commercial vendor is a legally acceptable approach. Neither the federal transportation act, nor its accompanying regulations, promulgated by the Federal Highway Administration, specify that blind vendors licensed by the state licensing agency must operate these vending facilities. Likewise, there is no prohibition against the use of a commercial vendor. The federal regulations state that "The State may operate the vending machines directly or may contract with a vendor for the installation, operation, and maintenance of the vending machines". These regulations contemplate that a state may contract with a vendor in a manner similar to Kentucky's program.

Although blind vendors are not employed directly as a result of the interstate program, the KBEP vendors benefit directly from the commissions generated by the commercial vendor. All the funds derived from the interstate program are designated to be spent directly in the KBEP.

The RSA Sanctions Kentucky's Approach

The Rehabilitation Services Administration (RSA), the federal agency in charge of administering the Randolph-Sheppard Act, approves of Kentucky's use of a commercial vendor with the commissions benefiting the KBEP. After reviewing the 1984 agreement between the DFB and the Transportation Cabinet allowing vending at the interstate rest areas in Kentucky, the RSA determined that the agreement was not in conflict with the Randolph-Sheppard Act. In a June 21, 1984, memorandum, the RSA stated:

> A contract with a private vending company to provide the machine services in the rest areas of the interstate highways with a commission percentage of gross sales paid to the licensing agency is certainly one approach to implement the new program.
>
> In the opinion of staff of this office, the spirit and intent of the new legislation is that the commissions received by the State licensing agency from the private vendor be used for Randolph-Sheppard Act program activities. Clearly the money resulting from this agreement will be used for those purposes.

A Majority of the States Use Commercial Vendors

Of the 35 states that operate interstate vending programs, 22 utilize commercial vendors. Table 3.1 shows the list of states which contract with private companies and the revenues generated by these contracts. Kentucky's receipts include revenues from public telephones located at the rest areas and can only be partially attributed to the commissions from the interstate vending program. Many of these state programs are relatively new and rest areas are still being built.

Thirteen states employ a total of 100 blind vendors in their interstate programs (See Table 3.2). Eight states employ blind vendors exclusively. In some instances, blind vendors are responsible for both sides of the interstates. This factor accounts for any discrepancies between the number of sites operated by blind vendors and the number of blind vendors employed in the program.

In almost all of the states that operate a blind vendor interstate program, the states have made a philosophical commitment to provide employment for the blind. Many of these states never considered using a commercial vendor and would only use one as a last resort. Most of these states have mini-Randolph-Sheppard Acts that give priority to blind vendors on state property. These acts vary greatly in detail and in scope.

Table 3.1

States Which Use Commercial Vendors
FFY 1990

STATE	TOTAL NUMBER OF VENDING LOCATIONS	TOTAL VENDING COMMISSIONS
Arizona	3	$87,318
Arkansas	11	$57,514
California	3	$46,219
Colorado	12	$22,446
Connecticut	31	$297,989
Georgia	18	$113,002
Kentucky	**27**	***$689,863**
Maine	4	$35,778
Maryland	5	$259,334
Missouri	24	$216,560
New Jersey	4	$9,259
New Mexico	1	$817
New York	63	$297,314
North Carolina	13	$337,940
North Dakota	13	$8,800
Pennsylvania	39	$1,146,447
Rhode Island	2	$18,163
South Dakota	19	$38,502
Tennessee	19	$482,564
Vermont	14	$10,721
Virginia	9	$192,658
Washington	12	$63,690

NOTE: *Kentucky's vending commissions include revenue from public telephones located at the rest stops. It is not known if other states' commissions include telephone revenues.

SOURCE: Randolph-Sheppard Vending Facility Program FFY 1990 Annual Report from the U. S. Rehabilitation Services Administration.

Table 3.2

States Which Use Blind Vendors At Interstate Rest Areas FFY 1990

STATES	TOTAL NUMBER OF VENDING LOCATIONS	TOTAL RECEIPTS	OPERATED BY BLIND VENDORS	TOTAL RECEIPTS	VENDORS EMPLOYED IN THE PROGRAM
ALABAMA	29	$1,664,443	29	$1,664,443	19
FLORIDA	14	$422,896	14	$422,896	14
IDAHO	6	$23,091	5	$110,539	5
ILLINOIS	20	$708,901	10	$583,322	10
INDIANA	37	$560,455	3	$166,700	2
IOWA	2	*	2	*	1
MICHIGAN	3	$51,750	3	$51,750	3
MINNESOTA	30	$190,618	5	$87,402	3
N. CAROLINA	13	$337,940	4	$216,754	0
OHIO	4	$339,837	4	$69,516	0
S. CAROLINA	34	$1,476,818	34	$1,476,818	34
TEXAS	15	$357,032	6	$204,205	6
WISCONSIN	2	$133,575	2	$133,575	3
TOTALS	**209**	**$6,267,356**	**121**	**$5,187,920**	**100**

***CONFIDENTIAL**

SOURCE: Randolph-Sheppard Vending Facility Program FFY 1990. Annual Report. Compiled by the Program Review staff from data received from the U.S. Rehabilitation Services Administration.

Some States Combine Blind Vendors with Commercial Vendors

Currently at least four states combine both approaches in their interstate vending programs. Florida, Indiana, Minnesota, and Texas use both blind and commercial vendors to operate their interstate vending sites. For example, Minnesota has 33 interstate rest areas that are commercially operated and 7 sites operated by licensed blind vendors. In some instances, Minnesota's blind vendors operate more than one vending site in a route.

Half of Texas' 20 rest stops are operated by blind vendors, half by commercial vendors. While commercial vendors are responsible for vending site clean-up, Texas' transportation department provides custodian services to the blind vendors' sites. Initially, Texas rest stops are let to commercial vendors. After a startup period, each site is evaluated to determine if it will support a licensed blind vendor. Since only one blind vendor is responsible for servicing, maintaining and cleaning at the sites, their capabilities are assessed. According to Texas officials, this program provides a balance between the two options.

Legislative and Executive Intent in Kentucky

Kentucky enacted a mini-Randolph-Sheppard Act in 1976, amended in 1990, which gives a preference to blind vendors on state property, but makes no specific reference to interstate vending. Although the DFB initially had a plan to develop a blind vendor program, this has not been implemented. In fact, the commercial vendor was recently awarded a new contract. Advocates for the blind maintain that the DFB has breached its agreement with the blind vendors, while the DFB maintains that fiscal and programmatic considerations have necessitated the use of a commercial vendor. The Transportation Cabinet wants vending services to be supplied by contract, either with a commercial vendor or blind vendors, to ensure uniformity.

Kentucky Law Includes a Preference for Blind Vendors

Kentucky has a statutory provision that gives priority to blind vendors on state controlled and owned property; however, there is no provision specifically requiring blind vendors at the interstate facilities. The Kentucky legislation, which is found in the enabling statute for the DFB, (KRS 163.470 (1990)), requires that:

> The Department for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines that are on the same property as a vending facility shall be paid to the blind vendor of the vending facility.

Since the interstate right-of-ways are state owned, controlled and maintained, a priority for blind vendors would be acceptable. Several states, such as California, Illinois and Wisconsin, have statutory provisions that give a preference to blind vendors on the interstates. In fact, in 1992 California will terminate its commercial contract and use blind vendors due to this legislation, as well as the actions of the California Vendors Policy Committee. The advo-cates suggest strengthening the Ken-tucky preference for blind vendors by connecting the interstate vending pro-gram directly with the Kentucky Bus-iness Enterprise Program (KBEP) and mandating the use of blind vendors at the interstate rest areas.

Commercial Vendor Approach Selected Due to Costs and Program Considerations

In 1984, the DFB could not afford the high startup costs connected with the vending sites. These costs included the $750,000 construction and utility costs and the other operating costs, such as vending machines and initial stock, that the DFB would have incurred in implementing a blind vendor program. Because of these financial fac-tors, the DFB agreed with the Transport-ation Cabinet to use a commercial vendor. From the outset, the Transport-ation Cabinet wished to provide vending services at all 27 rest areas. The DFB paid $150,000 of the $750,000 initial startup cost of building the vending structures and laying the utility lines. The Transportation Cabinet paid the remaining $600,000.

According to the former Executive Director of the DFB, programmatic considerations also necessitated the use of a commercial vendor. In testimony before the Interim Joint Committee on Transportation, Subcommittee on Highway and Vehicle Regulation in 1985, he stated that certain programmatic problems needed to be resolved before blind vendors could operate the interstate sites. These considerations included the ability of blind vendors to perform custodial duties at night, as required in the contract with the commercial vendor, and the need for data on the profitability of the vending sites.

Original Plans Included the Development of a Blind Vendor Program

The initial plan for Kentucky's interstate vending program included provisions related to blind vendors. The advocates maintain that the plan was to escrow 60% of the interstate commissions so that after an interim period, blind vendors could operate the facilities. However, the DFB contends that the moneys were escrowed to study, create and develop a blind vendor program. The plan limited the DFB's expenditures in the KBEP program to 40% of the interstate commissions. According to the DFB, the escrow was never maintained in a separate account. All funds from the interstate vending program are credited to the KBEP and are commingled with other funds in the KBEP. Excess monies are carried over for future expenditures in the KBEP. At the end of federal FY 1991, the surplus was $380,000 (see Table 3.3).

The testimony of the former executive director of the DFB corroborates the existence of a plan for blind vendors to take over the sites after the initial contract. In October 1985 before the Interim Joint Committee on Transportation, Subcommittee on Highway and Vehicle Regulation, he testified that when the contract expired, the Department would have the financial stability to carry the interstate program alone. Additionally, he stated that 60% of the interstate revenues would be escrowed so that the Department could take sole responsibility for the interstate program at the end of the contract.

Table 3.3
Revenues, Expenditures and Surplus in the Interstate Vending Program

FEDERAL FISCAL YEAR	INTERSTATE REVENUES TO KBEP	KBEP EXPENDITURES FROM INTERSTATE REVENUES	SURPLUS	CUMULATIVE SURPLUS	KBEP EXPENDITURES AS A PERCENTAGE OF REVENUES
1986	$221,566	$75,000	$146,566	$146,566	34%
1987	$394,772*	$252,583	$142,189	$288,755	64%
1988	$432,885*	$257,340	$175,545	$464,300	59%
1989	$506,395*	$327,148	$179,247	$643,547	65%
1990	$689,863*	$1,002,256	($312,393)	$331,154	145%
1991	$762,414*	$713,706	$48,708	$379,862	94%
TOTALS	**$3,007,895**	**$2,628,033**	**$379,862**	**$2,254,184**	

SOURCE: Compiled by Program Review staff from data supplied by the Department for the Blind.

*Includes phone revenues from public telephones at the interstate rest areas.

Documentation in The Budget of the Commonwealth of Kentucky for the 1986-1988, and 1988-1990 bienniums corroborates this plan to allow blind vendors to run the stands. In the key facts' sections that describe the interstate vending program, the following statement is made:

> The funds received from this program must be utilized for Randolph-Sheppard Act act-ivities exclusively. To that extent, 40 percent of the funds will be utilized for current Ken-tucky Business Enter-prises activities. The re-maining 60 percent will be held in an account for future use in devel-oping a program for training blind persons to operate the interstate vending facilities and to subsequently place them in those facilities.

Executive Policy Decision Changed the Interstate Vending Program

After consulting with DFB officials, the Governor's Office for Policy and Management approved a change in the interstate vending program. Ac-cording to the state budget director, the percentage escrowed was lowered to an unspecified amount. This occurred be-cause the amount of general fund dol-lars available in recent budgets has not been adequate to access the federal grant funds, which have been increasing at a rate of at least 9% over the last several years. This growth in available funds was difficult to predict when the GOPM was preparing the budget. Only funds used for the General Blind Ser-vices Program and the KBEP are elig-ible to match federal dollars. Therefore, the interstate vending program was incorporated into the KBEP so that ad-ditional federal funds could be procured. The GOPM anticipates that revenues will continue to be needed to maximize federal dollars, because the general fund dollars are insufficient.

The Transportation Cabinet Wants Facilities to be Contracted Out

According to Cabinet officials, the Transportation Cabinet (TC) wants to contract the interstate rest areas out to either a commercial firm or to blind vendors, such as a consortium or corporation of blind vendors. The TC believes this will provide manageable, efficient and effective standardized service in all 27 rest areas, consistency in the quality of the services, and uniformity in the commission rates applied. The Federal Highway Administration (FHWA) shares this goal of uniformity and consistency in the operation of the vending facilities and is concerned about possible changes in the operation of vending sites.

The TC feels that manageable and effective vending service at the rest areas may be lost if many different vendors operate the rest areas. However, the TC does encourage blind vendors and other vendors to bid on the contract at the appropriate time.

CHAPTER IV

BENEFITS FROM KENTUCKY'S INTERSTATE VENDING PROGRAM

The Department for the Blind receives two financial benefits from the commercial vending program on the interstate highways. The commercial vendor pays the DFB 15.4 % of its gross income. These commissions are used to generate federal matching funds at a ratio of up to four federal dollars for each state dollar.

Commissions Help Blind Vendors and Generate Federal Funds

The Rehabilitation Services Administration (RSA) requires the Department to spend all interstate vending commissions in the KBEP. Since the contract with a commercial vendor began, the Department has received $2.3 million in commissions. Most of the money reportedly has been spent to replace or renovate equipment and to provide management services for the KBEP. The remainder was reportedly spent to purchase machines at new locations, to maintain and repair equipment and to provide blind vendors with initial stock.

The DFB also uses interstate vending commissions to secure federal dollars from the RSA. For every dollar received from the commercial vendor, the Department can access three to four federal dollars. The Department can ac-cess these funds at a ratio of 4:1 for approximately the first $4 million. Thereafter, Department funds can be matched 3:1. The amount of commissions used by the Department to secure federal match depends partly on the amount of federal money available. As the amount of available federal money increases, more commissions are needed to maximize Kentucky's federal award.

Along with interstate vending commissions, three other sources of funds are used to access federal dollars: general fund appropriations, receipts from pay telephones at the rest stops, and a 5 percent set-aside paid by KBEP vendors based on their net income. Any decrease in these three sources results in a greater reliance on the commercial vendor commissions.

Chart 4.1 shows that over the last several years, the DFB has increasingly relied on the commercial commissions to maximize federal dollars. In FY 1989, if the Department used all other available funds to match federal dollars, it would have needed about 46 percent of the commissions to maximize the federal award. In FY 1993, the Department will need at least 67 percent of the commissions to maximize federal dollars. Increases in the federal award, coupled with decreases in the Department's general fund appropriation have caused greater reliance on commercial vendor commissions. From FY 1988 to 1991, Kentucky's federal award has increased 25 percent. The Department's general fund appropriations used for federal match have decreased 9 percent since FY 1991.

Chart 4.1

Federal Funds Support Vendor and Vocational Programs for the Blind

For FY 1993, Program Review staff calculates that commercial vendor commissions will generate up to $1.8 million in federal RSA funds. GOPM estimates that the total RSA award will be $5.2 million. In recent years, the Department has spent about 10 percent of the federal funds to help cover operating expenses of KBEP vendors. About 90 percent of the funds are spent in the General Blind Services (GBS) program that provides the following services:

- ° The Rehabilitation Center provides orientation, adjustment, mobility training, daily living skills, Braille reading and writing.
- ° Assistive Technology Services gives technical expertise and assistance in modifying equipment or job sites so that blind persons can be successfully employed;
- ° Volunteer Recording Units tape-record printed materials for blind students and individuals;
- ° Vocational Services provide evaluation, college and vocational training, medical treatment necessary for vocational preparation, counseling, technical aids and devices, career development, reader services, and job placement services.

Table 4.1 shows the number of times blind persons have received such services. The total number of active cases exceeds the number who received services because the Department contracts out for certain services. For example, persons who receive surgery and then can resume their employment are not counted as receiving one of the four services listed. In federal fiscal year 1991, the Department spent almost $1 million on surgery. Clients who receive funding for higher education or private vocational services are also not reflected in the numbers of service recipients.

Table 4.1 also gives the number of blind people who entered employment as a result of these services. In FY 1991, 370 were successfully rehabil-itated and entered employment. Of these, 205 were employed above the minimum wage; 30 clients were removed from social security and 4 were trained as blind vendors.

Table 4.1

General Blind Services Program

FISCAL YEAR	TOTAL ALL ACTIVE CASES	REHABILI-TATION CENTER	VOCATIONAL SERVICES	VOLUNTEER RECORDING UNITS	ASSISTIVE TECHNOLOGY	ENTERED EMPLOYMENT	ABOVE MIN. WAGE EMPLOYMENT	REMOVED FROM SOCIAL SECURITY	LICENSED BLIND VENDORS
78	1,026	N/A	N/A	N/A	N/A	226			
79	1,053	56	N/A	N/A	N/A	296			
80	1,076	N/A	N/A	N/A	N/A	272			
81	976	102	N/A	N/A	N/A	262	141	31	
82	936	110	15	194	N/A	238	103	15	3
83	774	117	128	175	N/A	216	117	22	2
84	745	134	131	194	N/A	233	122	29	2
85	751	181	130	189	N/A	248	134	22	3
86	776	174	138	136	23	263	135	16	4
87	894	218	186	141	25	298	173	24	1
88	951	226	188	146	63	336	184	30	8
89	977	250	187	159	96	350	206	27	6
90	1,042	245	196	134	96	396	201	20	3
91	1,049	242	165	187	137	370	205	30	4

SOURCE: Kentucky Department for the Blind

CHAPTER V

COMPARING THE COMMERCIAL VENDOR TO A KBEP APPROACH

Using blind vendors to run interstate vending areas is potentially as viable and acceptable an approach as using a commercial vendor. Although a majority of states use commercial vendors, thirteen states use some blind vendors in their interstate vending program. Program Review staff conducted a cost-benefit analysis of each approach from the perspective of the blind vendors, general blind services and the general taxpayer. Staff assumed that blind vendors would have the same responsibilities as the existing commercial vendor and that the program would operate in the same way as other KBEP vendors sites. If operated the same as the KBEP vendor sites, the blind vendor option would provide employment and income to a small group of blind vendors, but reduce funds available for general blind services and increase costs to the general taxpayer.

Current Approach Generates $1.2 to $1.9 Million for Blind Services

Table 5.1 compares the costs and benefits for blind vendors and the general blind services using the current commercial vendor approach. The general blind community receives net benefits worth $790,000 to $1.4 million per year, because commercial vending commissions generate federal dollars for the Department's General Blind Services program.

Blind vendors receive net benefits worth $450,000 to $510,000 per year. The Department receives about $440,000 per year from commercial vending commissions to spend on KBEP vendors. These commissions also generate $90,000 to $150,000 in federal dollars for the KBEP. Together, these benefits exceed the $80,000 per year that the Department spends on the commercial vendor. The Department spends $70,000 per year for the commercial vendor's electricity at the 27 vending sites and $10,000 per year for a staff person to monitor the commercial vendor contract.

KBEP Approach Would Reduce Blind Services

Program Review staff compared the costs and benefits of extending the KBEP blind vendor program to the interstate rest areas and its impact on blind services (see table 5.2). Because so many benefits would go specifically to interstate vendors, staff distinguishes the costs and benefits between blind vendors and the general blind services. If the KBEP blind vendor approach were chosen, interstate vendors would receive vending machines, initial stock, management, maintenance and repair services, as well as $590,000 in net annual income. Altogether, blind vendor would receive net annual benefits worth $930,000 the first year and $810,000

Table 5.1

Estimated Annual Costs and Benefits to Blind Services From Commercial Vendor Approach

COSTS	TO BLIND VENDORS	TO GENERAL BLIND SERVICES
UTILITIES	$70,000	0
MANAGEMENT SERVICES	$10,000	0
	$80,000	**0**
BENEFITS		
DFB COMMISSIONS GAINED	$440,000	0
FEDERAL DOLLARS GAINED	$90,000 - - $150,000	**$790,000 - - $1,400,000**
	$530,000 - - $590,000	**$790,000 - - $1,400,000**
NET BENEFIT (COST)	**$450,000 - - $510,000**	**$790,000 - - $1,400,000**

SOURCE: Compiled by Program Review staff.

thereafter. However, blind vendors would benefit at the expense of the general blind services. Unless the General Assemly were to appropriate more general funds, the DFB would need to shift money away from other programs for the blind to pay for the equipment, supplies and services of interstate vendors. Table 5.2 shows that the General Blind Services (GBS) program could incur net costs of $210,000 to $230,000 the first year and $90,000 to $110,000 per year thereafter. The Department would assume the costs of $220,000 to $340,000 each year to cover interstate vendors' operating expenses. In return, the Department would collect about $30,000 per year in additional set-aside accompanied by $80,000 to $100,000 per year in federal matching funds.

Table 5.2

Estimated Annual Costs and Benefits to Blind Vendors Assuming Use of Existing KBEP Approach

COSTS	TO BLIND VENDORS		TO GENERAL BLIND SERVICES	
VENDING MACHINES	$0		$100,000	
INITIAL STOCK	$0		$120,000	**(1st yr only)**
REPAIR & MAINTENANCE	$0		$60,000	
MANAGEMENT SERVICES	$0		$60,000	
TOTAL FIRST YEAR	**$0**		**$340,000**	
TOTAL SUBSEQUENT YEARS	**$0**		**$220,000**	
BENEFITS				
VENDING MACHINES	$100,000		$0	
INITIAL STOCK	$120,000	**(1st yr only)**	$0	
REPAIR & MAINTENANCE	$60,000		$0	
MANAGEMENT SERVICES	$60,000		$0	
NET INCOME GAINED	$590,000		$0	
SET ASIDE FOR DFB	$0		$30,000	
FEDERAL DOLLARS GAINED	$0		$80,000 -- $100,000	
TOTAL FIRST YEAR	**$930,000**		**$110,000 - $130,000**	
TOTAL SUBSEQUENT YEARS	**$810,000**		**$110,000 - $130,000**	
NET BENEFIT (COST) FIRST YEAR ONLY	**$930,000**		**($210,000 - - $230,000)**	
NET BENEFIT (COST) SUBSEQUENT YEARS	**$810,000**		**($90,000 - - $110,000)**	

SOURCE: Compiled by Program Review staff.

Table 5.3 compares the commercial vendor to the blind vendors approach. The commercial vendor option provides greater net benefits to the blind. Estimated annual net benefits from the commercial vendor program range from $1.24 million to $1.91 million, compared to $700,000 to $720,000 for a blind vendor program.

This difference is due primarily to the higher commissions from the commercial vending approach. Commissions are higher for two reasons. First, the commercial vendor pays the Department commissions based on gross income, while blind vendors operating under the terms of the KBEP would pay the Department a percentage of their net income. Second, the commercial vendor pays a higher percentage than blind interstate vendors would (15.4% to 5%).

Because the Department receives more money from commercial vending commissions than it would from the set-aside of blind interstate vendors, the commercial vendors program is able to access more federal matching dollars. Table 5.3 shows that commissions generate $880,000 to $1.5 million in federal match per year. The set-aside from blind interstate vendors would generate $80,000 to $100,000 per year.

Net Benefits to General Taxpayer Are Greater with Commercial Vendor

Program Review staff also compared the costs and benefits of both approaches as they relate to the impact on tax revenues. The Department for the Blind would need to generate additional money to implement a blind vendors option using the current KBEP approach. The current commercial vendor program provides the state with significantly more revenue commissions and federal dollars.

Table 5.4 shows that putting blind vendors at interstate rest stops would require the Department to generate $260,000 to $290,000 the first year and $140,000 to $170,000 each subsequent year. If a blind vendor program were implemented under the existing KBEP approach, the Department would assume the cost of providing the vendors with equipment, services and supplies worth $410,000 the first year and $290,000 thereafter. In return, blind interstate vendors would set aside about $30,000 per year, which would generate federal matching funds of $90,000 to $120,000 for the Department. If sufficient money were not raised through agency receipts, the General Assembly would have to appropriate at least 20% of the net costs from a blind vendor program, in hopes that the Department could access the 4:1 federal match to make up the balance.

With a commercial vendor program, Table 5.4 shows, the Department receives over $500,000 in commissions. These commissions, together with the federal matching dollars, provide state government with $1.5 to $2.3 million per year. In addition, the state government receives about $130,000 in sales and corporate tax revenue from the private commercial vendor. The Revenue Cabinet points out that blind vendor purchases are exempt from state sales taxes. Unlike the pri-vate vendor, blind vendors would be unlikely to owe any corporate taxes. Altogether, the commercial vendor program provides net benefits to the state government worth $1.58 to $2.36 million per year.

Table 5.3
Estimated Annual Costs and Benefits to the Blind Using KBEP Approach vs. Commercial Vendor Approach

C O S T S	KBEP BLIND VENDORS APPROACH	COMMERCIAL VENDOR APPROACH
UTILITIES	$0	$70,000
MANAGEMENT SERVICES	$0	$10,000
	$0	**$80,000**
B E N E F I T S		
NET VENDOR INCOME GAINED	$590,000	$0
DFB COMMISSIONS GAINED	$0	$440,000
DFB SET ASIDE GAINED	$30,000	$0
FEDERAL DOLLARS GAINED	$80,000 - -$100,000	$880,000 - -$1,550,000
	$700,000 - - $720,000	**$1,320,000 - - $1,990,000**
NET BENEFIT (COST)	**$700,000 - - $720,000**	**$1,240,000 - -$ 1,910,000**

SOURCE: Compiled by Program Review staff.

KBEP Approach Enhanced by Raising Set-Aside

If the DFB operated a blind interstate vendor program in the same manner as the KBEP, both the state government and general blind services would be negatively affected. The General Assembly would need to appropriate additional money to maintain current services to the blind. One way to increase benefits to the state and general blind services and stay with the blind vendors approach is to raise set-aside levels in the KBEP, using a graduated scale. Many other options are possible.

Table 5.5 shows the effects of raising the current 5% set-aside level an additional .5 percent for every $1,000 each vendor earns in annual net income over $19,000. For example, a blind vendor with an annual net income of $20,000 would pay the Department a 5.5% set-aside, a vendor with $21,000 would pay a 6% set-aside, and so on (see Table 5.6). Other states, such as Texas and North Carolina, use multiple set-aside levels, and this method has been approved by the Rehabilitation Services Administration.

Under this scenario, the Department for the Blind would receive an additional $270,000 from more lucrative stands. The Department, in turn, could use this money to secure $900,000 to $1.2 million in federal matching funds to help blind vendors and the general blind community. While not as beneficial to the state govern-ment as a commercial vendor program, a blind vendors program together with higher set-aside levels for vendors with higher income, translates into $790,000 to $1.01 million for the state government in the first year and $910,000 to $1,130,000 per year thereafter.

Table 5.4

Estimated Annual Costs and Benefits to State Government

C O S T S	KBEP BLIND VENDORS APPROACH		COMMERCIAL VENDOR APPROACH
VENDING MACHINES	$100,000		$0
INITIAL STOCK	$120,000	**(1ST YR ONLY)**	$0
REPAIR & MAINTENANCE	$60,000		$0
MANAGEMENT SERVICES	$60,000		$10,000
UTILITIES	$70,000		$70,000
TOTAL FIRST YEAR	**$410,000**		**$80,000**
TOTAL SUBSEQUENT YEARS	**$290,000**		**$80,000**
B E N E F I T S			
DFB COMMISSION GAINED	$0		$510,000
DFB SET-ASIDE GAINED	$30,000		$0
FEDERAL MATCHING FUNDS	$90,000 - - $120,000		$1,020,000 - - $1,800,000
TAX REVENUE GAIN	$0		$130,000
	$120,000 - - $150,000		**$1,660,000 - - $2,440,000**
NET BENEFIT (COST) FIRST YEAR ONLY	**($260,000 - - $290,000)**		**$1,580,000 - - $ 2,360,000**
NET BENEFIT (COST) SUBSEQUENT YEARS	**($140,000 - - $170,000)**		**$1,580,000 - - $2,360,000**

SOURCE: Compiled by Program Review staff.

Table 5.5

Estimated Annual Costs and Benefits to State Government

COSTS	KBEP BLIND VENDORS APPROACH (A)		COMMERCIAL VENDOR APPROACH
VENDING MACHINES	$100,000		$0
INITIAL STOCK	$120,000	(1ST YEAR ONLY)	$0
REPAIR & MAINTENANCE	$60,000		$0
MANAGEMENT SERVICES	$60,000		$10,000
UTILITIES	$70,000		$70,000
FIRST YEAR	**$410,000**		**$80,000**
SUBSEQUENT YEARS	**$290,000**		**$80,000**
B E N E F I T S			
DFB COMMISSIONS GAINED	$0		$510,000
FEDERAL SET ASIDE GAINED	$300,000		$0
FEDERAL DOLLARS GAINED	$900,000 - - $1,200,000		$1,020,000 - - $1,790,000
TAX REVENUE GAIN	$0		$130,000
	$1,200,000 - - $1,500,000		**$1,660,000 - - $2,440,000**
NET BENEFIT (COST) FIRST YEAR	**$790,000 - - $1,010,000**		**$1,580,000 - - $2,360,000**
NET BENEFIT (COST) SUBSEQUENT YEARS	**$910,000 - - $1,130,000**		**$1,580,000 - - $2,360,000**

SOURCE: Compiled by Program Review staff.

(A) In this scenario, Randolph-Sheppard blind vendors pay different set-asides according to how much they earn. For every $1,000 each vendor earns in annual net income ove $19,000, he pays an additional .5 percent in set-aside over the normal 5 percent. For example, a vendor who earns $20,000 per year would reimburse DFB 5.5 percent of net proceeds, a vendor who earns $21,000 would reimburse DFB 6 percent, and so on.

Table 5.6
Estimated Annual State Government Revenue from Blind Vendors, Using a Sliding Scale Set-Aside (A)

KBEP VENDOR	VENDOR NET INCOME	SET-ASIDE LEVEL	SET-ASIDE PAYMENT	KBEP VENDOR	VENDOR NET INCOME	SET-ASIDE LEVEL	SET-ASIDE PAYMENT	INTER-STATE VENDOR	VENDOR NET INCOME	SET-ASIDE LEVEL	SET-ASIDE PAYMENT
1	$1,680	5.00%	$84	37	$26,239	8.50%	$2,230	1	$211	5.00%	$11
2	$3,281	5.00%	$164	38	$28,235	9.50%	$2,682	2	$2,335	5.00%	$117
3	$5,944	5.00%	$297	39	$28,783	9.50%	$2,734	3	$3,422	5.00%	$171
4	$8,023	5.00%	$401	40	$28,783	9.50%	$2,734	4	$5,542	5.00%	$277
5	$8,236	5.00%	$412	41	$29,660	10.00%	$2,966	5	$8,889	5.00%	$444
6	$8,287	5.00%	$414	42	$29,660	10.00%	$2,966	6	$10,100	5.00%	$505
7	$9,206	5.00%	$460	43	$31,946	11.00%	$3,514	7	$10,651	5.00%	$533
8	$9,307	5.00%	$465	44	$32,293	11.50%	$3,714	8	$11,550	5.00%	$578
9	$9,549	5.00%	$477	45	$33,000	12.00%	$3,960	9	$12,892	5.00%	$645
10	$9,642	5.00%	$482	46	$34,862	12.50%	$4,358	10	$18,181	5.00%	$909
11	$10,229	5.00%	$511	47	$35,000	13.00%	$4,550	11	$18,536	5.00%	$927
12	$10,479	5.00%	$524	48	$35,000	13.00%	$4,550	12	$19,419	5.00%	$971
13	$11,021	5.00%	$551	49	$40,566	15.50%	$6,288	13	$21,700	6.00%	$1,302
14	$13,230	5.00%	$662	50	$40,566	15.50%	$6,288	14	$22,158	6.50%	$1,440
15	$14,006	5.00%	$700	51	$40,600	15.50%	$6,293	15	$22,418	6.50%	$1,457
16	$14,317	5.00%	$716	52	$42,168	16.50%	$6,958	16	$22,452	6.50%	$1,459
17	$14,620	5.00%	$731	53	$42,168	16.50%	$6,958	17	$23,605	7.00%	$1,652
18	$14,661	5.00%	$733	54	$42,189	16.50%	$6,961	18	$27,998	9.00%	$2,520
19	$14,852	5.00%	$743	55	$42,189	16.50%	$6,961	19	$29,310	10.00%	$2,931
20	$15,228	5.00%	$761	56	$42,494	16.50%	$7,012	20	$34,341	12.50%	$4,293
21	$16,048	5.00%	$802	57	$45,653	18.00%	$8,218	21	$34,566	12.50%	$4,321
22	$16,048	5.00%	$802	58	$45,653	18.00%	$8,218	22	$37,500	14.00%	$5,250
23	$16,204	5.00%	$810	59	$45,653	18.00%	$8,218	23	$42,025	16.50%	$6,934
24	$16,331	5.00%	$817	60	$48,758	19.50%	$9,508	24	$47,550	19.00%	$9,034
25	$16,331	5.00%	$817	61	$48,939	19.50%	$9,543	25	$61,223	26.00%	$15,918
26	$17,445	5.00%	$872	62	$49,590	20.00%	$9,918	26	$62,386	26.50%	$16,532
27	$17,925	5.00%	$896	63	$53,669	22.00%	$11,807				
28	$18,589	5.00%	$929	64	$53,669	22.00%	$11,807				
29	$18,813	5.00%	$941	65	$53,669	22.00%	$11,807				
30	$20,304	5.50%	$1,117	66	$54,539	22.50%	$12,271				
31	$21,474	6.00%	$1,288	67	$58,386	24.50%	$14,305				
32	$21,474	6.00%	$1,288	68	$61,538	26.00%	$16,000				
33	$22,183	6.50%	$1,442	69	$62,346	26.50%	$16,522				
34	$24,359	7.50%	$1,827	70	$62,346	26.50%	$16,522				
35	$24,359	7.50%	$1,827	71	$62,346	26.50%	$16,522				
36	$25,598	8.00%	$2,048	72	$70,179	30.50%	$21,405				
SUB TOTALS							**$326,079**				**$81,130**
TOTAL			**$407,209**								

(A) Revenue from the set-asides of the 72 vendors at 56 KBEP vending sites and 25 vendors at 27 interstate rest stops. Each vendor would pay 5% of net-proceeds, plus an additional .5% for every $1,000 in net earnings over $19,000.

SOURCE: Compiled by Program Review staff from data received from DFB.

CHAPTER VI

CONCLUSIONS AND RECOMMENDATIONS

After several months of study, Program Review staff came up with two recommendations regarding Kentucky's interestate vending program. The first recommendation is programmatic and the second is administrative.

Blind Vendor Preference

State policy and intent support the use of blind vendors. Although Kentucky law does not specifically require the use of blind vendors at the interstate rest stops, the law does include a preference for blind vendors in state buildings and state owned, leased or occupied property. GOPM documentation and statements made by DFB officials reveal that as early as 1985, the DFB was planning to develop a blind vendor program. However, due to an executive policy change, the DFB continues to use a commercial vendor.

Advocates suggest strengthening Kentucky's preference for blind vendors by connecting the interstate vending program directly with the Kentucky Business Enterprise Program (KBEP), and thus mandating the use of blind vendors at these rest areas. However, employing blind vendors to operate these vending sites in the same manner as the KBEP sites would result in a loss of funds to the general blind community and added cost to the Kentucky taxpayer.

Employing blind vendors should not be at the expense of the General Blind Services Program or the state's general fund. An interstate blind vendors' program should be comparable to the current commercial contract. The Transportation Cabinet, which has authority over interstate vending, wants vending services to be contracted out to a commercial firm or to blind vendors. The DFB could use blind vendors exclusively or in conjunction with private commercial vendors.

RECOMMENDATION 1: DFB Should Work with Blind Vendors to Develop Viable Interstate Vending Programs for Blind Vendors

The Department for the Blind and blind vendor community, in conjunction with members of the general blind community should develop a viable plan prior to the renewal of current commercial contract, to permit blind vendors to bid for all or part of the existing vending sites. This plan should not result in a loss of federal funds and should not require more General Assembly funds.

The committee added language to the original staff recommendation to protect the Commonwealth from losing federal and state government funds. The staff recommendation did not include such conditions.

Auditing of Existing Contract

Both the 1985 contract and the 1992 contract require an annual internal audit of the commercial vendor, paid for by the vendor. The auditor is chosen by the Transportation Cabinet and the Department. According to the Department, only two audits have been done since 1985. The audits cover the following periods: 1) July 1987 - June 1988, 2) July 1988 - September 1990.

The first audit report, dated October 5, 1988, included the following three findings. First, the company was unable to implement the computerized coin mechanism required in the state contract. Second, many machines were not equipped with recorded meter counters. Finally, the meter counts on the vending machines could not be relied on for actual vending sales.

The second audit, dated February 19, 1991, found that the reported sales and commission figures were accurate. However, the auditor stated that since no cost-effective technology exists to record sales made by vending machines, his procedure was limited to testing machine receipts actually deposited by Quatros. At the present time, another internal audit is being conducted. Quatros' current contract requires computerized, non-resettable total cash sales counters, which should resolve these problems.

RECOMMENDATION 2: Ensure Contract Compliance With Annual Internal Audit Requirement.

The Department for the Blind and the Transportation Cabinet should ensure that the required internal audit of the commercial vendor is conducted annually at the end of the federal fiscal year.

CHAPTER VII

COMMITTEE ACTION

Program Review and Investigations Committee staff presented the draft report on the Kentucky Department for the Blind's Interstate Vending Program on August 17, 1992. The Committee discussed the report, and state agencies, as well as other interested parties, testified at this meeting. Recommendation 1 was adopted as amended. Recommendation 2 was adopted.

At its September 14, 1992 meeting, the committee adopted the staff report, as amended, for submission to the Legislative Research Commission.

APPENDIX

APPENDIX

HISTORY OF THE INTERSTATE VENDING CONTRACT IN KENTUCKY

January 6, 1983	Surface Transportation Assistance Act of 1982 became law.
1983 - 1984	During the Brown Administration, the Transportation Cabinet refused to enter into an agreement with the Department for the Blind.
December 8, 1983	Quatros was incorporated as a Kentucky corporation.
April 17, 1984	During the Collins Administration, the Transportation Cabinet entered into an agreement with the Department for the Blind.
May 7, 1984	Competitive sealed bids were invited from vending companies for the establishment of an interstate vending program. Only Pendleton Brothers Vending, Inc. and Quatros, Inc. submitted bids.
June 4, 1984	All bids were rejected. The reason given was that the level of competition desired for the procurement had not been achieved. Later the reason given was that specifications could not be written to provide the evaluations necessary to place this contract by competitive sealed bids. Quatros bid 12% and Pendleton Brothers Vending bid 15.4%.
March 7, 1985	Request for Proposal (RFP) SR-1724-T-85, entitled Vending Service for Interstate Highway Rest Areas, was advertised. This RFP called for an evaluation by 5 persons. If the technical proposal did not receive an average of 75 points, the accompanying cost proposal would not be considered.

	This procedure is known as competitive negotiation.
June 27, 1985	The contract was awarded to Quatros, Incorporated, of Dry Ridge, Kentucky. Only Quatros received at least a minimum average score of 75 points, the minimum required.
July 3, 1985	The price contract with Quatros, Inc was signed for a 4-year contract with a 2-year renewal option. The duration of the contract was from July 3, 1985 to July 2, 1989. Section A Commission Rate 13.1% Section B Commission Rate 12.7%
July 9, 1985	Pendleton Brothers protested the awarding of the contract.
September 27, 1985	The Finance and Administration Cabinet decided against Pendleton Brothers.
October 14, 1985	A lawsuit was filed in Franklin Circuit Court: <u>Pendleton Brothers v. Finance and Administration Cabinet, Transportation Cabinet, Department for the Blind and Quatros, Inc.</u>
July 15, 1986	Franklin Circuit Court Judge Graham granted summary judgment in favor of the defendants, Finance and Administration Cabinet, et al. The Franklin Circuit Court held that a disappointed bidder lacks standing to file an action contesting the award of a public contract to another company.
June 30, 1988	The Supreme Court of Kentucky reversed the circuit court decision. Under the model procurement code, unsuccessful bidders on state contracts can challenge a contract award on grounds other than fraud or mistake, such as political patronage. The determination of the protest was final for administrative purposes, but did not preclude judicial review. Although the

	allegations in this complaint were inartfully drawn, they were sufficient to state a cause of action. Summary judgment was inappropriate here. Pendleton Brothers v. Finance & Administration Cabinet, et al, Ky., 758 S.W. 2d 24 (1988).
July 28, 1989	An agreed order was entered in Franklin Circuit Court dismissing Pendleton Brothers v. Finance Cabinet, et al.
April 1990	The 2-year renewal option was exercised. The commission was raised to 13.1% for Section B.
July 3, 1991	Request for Proposal (RFP) SR-73-T-92, entitled Vending Service for Interstate Highway Rest Areas, was advertised. This RFP called for an evaluation by 5 persons. If the technical proposal did not receive a minimum average of 75 points, the accompanying cost proposal would not be considered.
December 3, 1991	The contract was again awarded to Quatros, Inc. Quatros bid 15.4% for both geographic parts. Other bids were: 1. Seivers Vending Services 16.83% 2. Pendleton & Ruschival 17.8% (B only) 3. Kentuckiana Food Service 14.2% 4. Canteen Corporation 21.8% 5. Service America Corp. 18% Only Quatros received an average score of 75 points for its technical proposal. Therefore, only Quatros' cost proposal was acceptable.
December 5, 1991	Canteen Corporation protested the awarding of the contract.
December 30, 1991	Pendleton Brothers protested the awarding of the contract.
January 3, 1992	The Finance and Administration Cabinet decided against Canteen Corporation.

January 6, 1992	The Finance and Administration Cabinet decided against Pendleton & Ruschival.