


**U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons**



**PROGRAM STATEMENT
Employee Organizations**

Approved by	 William K. Marshall III Director, Federal Bureau of Prisons
DPI	ADM
Number	3721.07
Date	March 19, 2026

Summary of Changes

<i>Program Statement Rescinded:</i> <ul style="list-style-type: none">▪ 3721.06 Employee Organizations (1/21/2009)
<i>Changes:</i> <ul style="list-style-type: none">▪ Removes language to ensure consistency with Executive Orders.▪ Updates the gross receipt amount to 50,000 for the requirement of a public accountant to complete the employee organization annual audit.▪ Updates language for alcohol use on Bureau property.▪ Updates the position Controller to Business Administrator.

1. PURPOSE AND SCOPE

To establish policies, standards, and procedures specifically providing guidelines on acceptable activities and the operational and financial reporting responsibilities of employee organizations.

Employee organizations provide a recreational and social support system for employees and their families. They can be excellent mechanisms for recruiting and retaining employees, building friendship and camaraderie between employees and their families, maintaining morale, assisting relocated employees in adjusting to new communities, and assisting new employees in adjusting to life as Bureau employees.

This program statement applies to all employee organizations except such organizations as federal credit unions where management requirements are established by federal or state regulations.

a. **Program Objectives.**

- Employees will have a clear understanding of the rights and responsibilities of employee organizations and the role of such organizations in supporting the mission of the Bureau.
- Employee organizations will be established for recreational and social activities, which will be of benefit to employees and the Bureau.
- Qualified blind persons licensed by state agencies for the blind will be given priority in the operation of vending facilities at Bureau institutions in accordance with the requirements of the Randolph Sheppard Act.
- Each employee organization will operate within the requirements and guidelines of this program statement and be monitored and regulated by appropriately designated employees.
- An audit of each employee organization will be conducted annually, and for any organization generating gross receipts of \$50,000 or more, an audit will be conducted by an outside, independent certified public accountant.

b. **Institution Supplement.** Required. An institution supplement must be issued to implement this program statement at those institutions operating any employee organization. Specific implementing instructions can be made at the local level.

The institution supplement must contain information relating to:

- The Warden's designation of a monitor, as required in Section 3.a. of this program statement, for each employee organization.
- Procedures for the approval of the use of any facility by an employee organization.
- Publication of an annual calendar of events.
- Implementation of the fiscal management and record keeping responsibilities ensuring all Employee's Club financial resources are accurately accounted for, allocated, and monitored by the Treasurer.

2. **GENERAL ADMINISTRATION**

This program statement establishes the basic procedures concerning the establishment, regulation, and operation of employee organizations and provides a uniform system whereby all organizations of this type will operate within a similar framework of administrative and financial management. These instructions apply to all employee organizations.

a. **Files and Records.** Business Administrators at facilities with employee organizations must maintain a separate file for each organization. This file must contain a copy of the current constitution and by-laws, financial statements for the last three calendar years, audits for the last three years, requests for use of government facilities and other pertinent material such as the space rental agreement for employee organizations, follow-ups on missing financial statements,

etc. This file must also contain copies of any institution supplement and certification statements on the status of the organizations by the Warden of the institution.

The financial records and supporting documents for all employee organizations which maintain funds must be kept in accordance with generally accepted accounting principles. These accounting principles must be consistently applied to all transactions. Each organization is responsible for maintaining proper and accurate financial records.

b. **Management Responsibilities.** The Warden at each institution must ensure the employee organizations adhere to the requirements of this program statement. These requirements include submitting an annual certification, no later than May 30th, to the appropriate regional director certifying each employee organization complies with this program statement. This certification, at a minimum, must contain those items described in Section 3 below. It must also contain any deviations or discrepancies from this program statement along with a corrective plan of action.

Organizations may not engage in, or sponsor any function, activity, or project which may be in conflict with this program statement, the ordinary standards of ethics and good conduct, or in any way may result in embarrassment to the United States (U.S.), the Bureau, the institution, the organization membership, or the community.

All employee activity in the operation of employee organizations, including fund-raising activities, may conduct limited fund-raising activities on government property. All proceeds must be used for the sole benefit and use of Bureau employees. See Program Statement **Fund-Raising By Employees**.

c. **Legal Responsibilities.**

- The organization, operation, and activities of employee organizations raise many sensitive and often complex legal issues. For the protection of the employees involved, as well as the Bureau, the following legal requirements must be met.
 - Prior to entering into any written contract, (e.g., operation of vending machines, purchase of real or personal property) the employee organization must have the contract reviewed by a private attorney. This review is intended to ensure the contract meets all applicable state and federal requirements, and members of the employee organization are protected. Written proof of such legal review must be provided to institution employees responsible for the administrative oversight of the organization.
 - All contracts entered into by an employee organization must contain the following disclaimer statement.

“This contract is entered into by (Name of Organization). The Federal Bureau of Prisons and the United States Government assume no responsibility, financial or otherwise, for the duties and obligations contained in this contract.”

- Employee organizations are encouraged to consider the following legal issues carefully. It is recommended a private attorney be consulted regarding these matters.

- **Tax Requirements.** As discussed in Section 7 below, employee organizations must comply with applicable tax laws. For example, when employee organizations enter into business arrangements (e.g., contracts which generate income, paying wages to employees, purchase and sale of real and personal property), they may incur reporting and other requirements under provisions of state and federal tax laws.

- **Incorporation.** Incorporation of an employee organization under state law may be advantageous to members of the organization (e.g., decreased potential for personal liability on contracts entered into by the organization). Incorporation may also place certain legal requirements on the organization (i.e., taxes, bidding on contracts, etc.), which may or may not be beneficial to the organization. The advantages and disadvantages of this option should be addressed when consulting an attorney.

- **Insurance.** An insurance policy (e.g., liability, Directors and Officers Insurance where the organization is incorporated) may offer additional protection to the employee organization or to individual members of the organization. This option should be considered especially where the organization owns valuable assets (e.g., real or personal property).

- **Litigation.** All officers and members of employee organizations are acting as private citizens when they participate in the business and activities of the organization. They are not acting as official representatives of the United States and may not represent themselves as such. Therefore, if they are sued because of these actions, they are not entitled to representation by or indemnification from the United States.

3. ADMINISTRATIVE RESPONSIBILITIES

- a. Each Warden will appoint a member of the institution’s Executive Staff who is not an officer of the organization to hold the responsibility for monitoring the activities of employee organizations. The staff member assigned must be no lower than the Associate Warden level.

The designated person must have the authority to recommend whatever administrative action is necessary to achieve compliance with Bureau policy and audit findings. The action may range from temporary to permanent suspension of employee organization activities on Bureau property. The employee organization is to receive written notice of such recommendations and

must have the opportunity to respond. Any sanction taken must be commensurate with the violation(s) detected and the number of violations and must be approved by the Warden. Continued noncompliance will be dealt with by increasing the severity of sanctions.

b. The designated person is responsible for providing written certification to the Warden, no later than the 25th day of the first month of each quarter, certifying the following actions for the previous quarter have been taken:

- All financial statements were submitted accurately and promptly.
- All financial reports were reviewed with the Business Administrator.
- An independent audit was conducted when required.
- The audit was reviewed with the Business Administrator (if the audit was performed during the quarter); and
- All deficiencies noted in the last Bureau compliance audit were corrected, and if not, a plan of action exists to correct and ensure compliance with Bureau policy. An update on unresolved deficiencies is required each quarter.

c. The designated person is responsible for ensuring the following have been forwarded to the Regional Comptroller by the last day of the first month of each quarter, except as noted:

- A current copy of the institution supplement (as applicable when changed).
- A current copy of constitution/by-laws (as applicable when changed).
- Quarterly and annual statements as required.
- A copy of the merchandise inventory.
- A copy of the bill and evidence of payment to Trust Fund for their percentage of vending income, which is 15 percent of the profits received from Class 1 vending machine sales.
- Annual certification from the Warden on the status of organizations.
- Annual audit.
- A copy of the quarterly certification by the designated person responsible for organization.
- Tax information - copies of all reports filed including 1099's, as applicable.

d. **Regional Oversight.** Upon receipt of the required statements and certifications from each institution having employee organizations, the Comptroller must ensure these documents are reviewed and meet all financial requirements contained in this program statement.

- The Comptroller must ensure files are maintained at each institution and they include at a minimum the following documentation:
 - A copy of the institution supplement.
 - A copy of the current constitution and by-laws.
 - Warden's annual certification on the status of the organization.

- Quarterly certification by the designated person responsible for the organization.
 - Quarterly and annual statements, as required.
 - Annual audit report.
 - Tax information - copies of all reports filed, including 1099's.
 - Documentation of Regional Office review to include evidence of proper payment to Trust Fund of the rebate of vending machine income as required.
 - Any documentation to show requests for the correction of deviations noted during a review and the responses from the institution.
- After a review of the annual statements and certifications by the Warden, the Comptroller must provide the Chief, Finance Branch, with a summary report on employee organizations, including any deviations from these requirements as noted and identified by the facility. The report must include the plans to correct these deviations. This summary report is due no later than June 30th for the previous calendar year.

4. CONSTITUTION/BY-LAWS

Each organization must have a written constitution and a set of by-laws duly approved by the membership. The following items must be included:

- General statement regarding the purpose and objectives of the organization.
- Designation of an officer of the organization who will be responsible for the financial records of the organization.
- Requirements for quarterly and annual profit and loss statements which must be prepared to reflect the income and expenditures as required by Section 13 of this program statement.
- Requirements for a quarterly and annual balance sheet which reflects the assets, liabilities, and capital of the organization.
- Requirement for an audit to be conducted at least annually.
- Requirements for copies of described items in Section 4 above to be furnished through the Warden to the Business Administrator no later than the 15th day of the month following the end of each quarter. Also, the annual audit must be forwarded no later than 30 days after the audit is completed. The constitution and by-laws must contain the specific requirements of Section 4 above. Merely specifying compliance with this program statement is not sufficient.

5. ACTIVITIES OF EMPLOYEE ORGANIZATIONS

a. A written request must be approved by the Warden for any activity to be held by an employee organization using a government facility. This request, at a minimum, is to include the following information:

- The nature or purpose of the activity.

- The date and time of the activity, including the estimated ending time.
- Whether the event is in conjunction with an official event (e.g., an incentive award ceremony, staff recall).
- Any other pertinent information as required in the local institution supplement.

b. At the Warden’s discretion, an annual calendar of organization activities or events may be approved. If this method is used, any revisions to the approved calendar must be handled in the manner described above.

c. Employee Organizations are subject to 5 CFR 735.201 regarding gambling restrictions on government-owned or leased property.

d. Employee organizations may engage in fund-raising activities to offset the expenses of the programs offered, but not to create large cash reserves or fund large business organizations. Ideally, employee organizations should have nominal reserves from year to year.

6. USE OF ALCOHOLIC BEVERAGES

Employee Organizations are subject to 41 CFR §102-74.405, the federal regulation for alcohol use on federal property. To preserve the professional environment of Bureau facilities, the directive from the Director may not be redelegated and hereby states:

“Alcohol is prohibited on Bureau grounds, except in staff housing. Further, alcohol consumption is prohibited while on duty.”

7. INTERNAL REVENUE SERVICE (IRS) REQUIREMENTS

All employee organizations must fulfill the requirements of 26 CFR 1.501(a), the Internal Revenue Code Section for their classification of organization. All reporting requirements must be spelled out in the by-laws of the organization including, but not limited to the following:

- a. The officers responsible for reporting to the IRS.
- b. The types of reports and documents which the organization must file.
- c. The review procedures for ensuring all necessary changes to reporting requirements are made when changes take place in the organization.
- d. Any other pertinent information as deemed necessary by the organization to ensure compliance with IRS regulations.

8. BANK ACCOUNTS

A separate bank account must be maintained by each employee organization within the institution.

- a. The Warden may exempt organizations with operating budgets of less than \$100.00 a year from maintaining bank accounts. Exempt organizations must maintain stringent controls of cash as well as detailed records to account for receipt and expenditure of funds. The controls established must be made a part of the organization's constitution and by-laws.
- b. Each employee organization must reconcile its monthly bank statement with the organization transaction log within five days after receiving the statement. The bank statements must be kept in a file established for each annual operating period. After the reconciliation has been accomplished, the financial officer for the organization must sign and date the reconciliation.
- c. Monthly bank statements and deposit tickets will be maintained together. They must not be mingled with other months or previously reconciled bank statements.

9. COLLECTIONS

Issuing receipts for various collections is recommended but optional, depending on instructions the organization provides. Proper accounting practices must be followed in handling collections and providing receipts. All collections are to be handled in accordance with the provisions of this program statement.

10. EXPENDITURES

Payments will be made electronically to the greatest extent possible. Copies of invoices and receipts showing payment must be retained for audit purposes. Invoices or other documents supporting expenditures of funds will reference the transaction numbers used to make the payments. Invoices must be signed to provide evidence of the receipt of services or goods.

11. REGISTERS

- a. Registers or spread sheets must be maintained to record all collections and disbursements. They may be maintained either manually or using computerized software. The registers will be maintained separately for collections and disbursements or in a manner which identifies and distinguishes collections and disbursements. The register must also be a cash flow statement and must always reflect the current funds on deposit in the bank account.

The registers should have multiple columns with appropriate headings such as, "non-alcoholic beverage sales," "candy sales," "dues," etc. Additionally, there must be separate columns for

each class of vending machine receipts. Provisions must be made in the collections sections to indicate the dates and the amounts of bank deposits.

b. These registers must be totaled monthly, with the resulting figures used to provide a current cash balance which will be reconciled with the transaction log and monthly bank statement balances. The totals of individual columns may be used to compile information for the required profit and loss statements.

12. ASSET AND LIABILITY ACCOUNTS

a. Ledger accounts reflecting assets, liabilities, and capital will be kept in sufficient detail to provide the information required for preparation of the balance sheet as required by this program statement.

b. Inventories of equipment and merchandise items must be made at the end of each quarter to prepare the balance sheet and the profit and loss statements for each period.

13. INCOME AND EXPENDITURE STATEMENT/PROFIT AND LOSS STATEMENT

a. The designated individual responsible for the financial records of the organization will prepare the quarterly and annual profit and loss statements.

b. Separate profit and loss statements will be prepared for each class (Class 1, Class 2) of vending machine operation. A profit and loss statement must also be prepared for all other activities. Each statement will show the income and expenditures during the period covered as well as a net income or loss figure.

c. In addition, a profit and loss statement combining the Class 1 vending operation, Class 2 vending operation, and all other activities will be prepared for each period.

d. The Warden or designee, the officers of the employee organizations, and another employee, at the department head level designated by the Warden, will review the above statements to assure the following:

- The accuracy and reliability of the reports.
- Adequate control over expenditures and receipts.
- The employee organization is solvent, that is if the total assets exceed the total liabilities as reported on the balance sheet.

14. VENDING MACHINES

a. All vending machines at Bureau facilities will be classified into one of the following

categories:

- Class 1. All vending machines located in an institution's visiting room are accessible to both inmates and visitors.
- Class 2. All vending machines located in areas are off limits to the inmate population (e.g., staff lounges, training centers).

b. The Bureau is required by law to give priority in the operation of Class 1 and Class 2 vending machines on Bureau property to blind persons licensed by the state licensing agencies (SLA) for the blind. See the Randolph-Sheppard Act, Title 20 U.S.C. §107. An SLA is a state vocational rehabilitation agency, which has been designated by the Secretary of the U.S. Department of Education to issue licenses to blind persons for the operation of vending facilities on federal property. SLAs have been designated in every state except Wyoming and Montana.

c. The Business Administrator at each Bureau institution will ensure the appropriate SLA is aware of the Class 1 and Class 2 vending opportunities available at the institution. If the SLA determines Class 1 and Class 2 vending opportunities at the institution can support a blind vendor, a blind vendor licensed by the SLA must have priority to operate the Class 1 and Class 2 vending machines at the institution. In this case, the employee organization at the institution will not be authorized to provide Class 1 and Class 2 vending services.

d. If the SLA determines the institution's Class 1 and Class 2 vending opportunities will not support a blind vendor, the employee organization at the institution may provide Class 1 and Class 2 vending services. A written agreement between the employee organization and the institution concerning the use of Bureau facilities for the operation of vending machines and the payment due to the Bureau for space rental will be executed and maintained.

- (1) Institutions with vending machines and other appliances operated on the premises, with profits from these machines and appliances used for the benefit of employee organizations, should establish a recommended mark-up for the selling price of each good sold based on 30 to 40 percent of the cost of inventory.
- (2) Space rental is \$1.15 per square foot of floor space per month for all space occupied by reserve stock of goods.
- (3) Reimbursement to the government for vending machines, other appliances and space may be made quarterly, semi-annually, or annually as determined locally.
- (4) Collections from the SLA or Employee's Club for space rental must be deposited by the institution's Financial Management Department (FMD) into Fund REC3220, General Fund Proprietary Receipts, Not Otherwise Classified.

(5) A written agreement between the institution and the employees' group shall be executed, revised from time to time as necessary, and maintained on file.

(6) Any employee's time devoted to vending machine operations, such as filling machines, collecting proceeds, etc., will occur on the employee's personal time and not during duty hours.

e. Employee organizations may not install electronic equipment, with the exception of approved vending machines within the institution's secure perimeter. Electronic equipment may be installed in training centers, if the center is physically located outside of the institution's secure perimeter. The security of supplies and materials must be maintained at all times. If vending machines are placed in training centers, consideration must be given to the security of the machines and to the possible damage to the government property should theft occur.

f. The sale, distribution, and use of cigarettes, smokeless tobacco, and covered tobacco products in vending machines set forth in the Food and Drug Administration regulations, Title 21 CFR Part 1140 Subpart A, are prohibited.

g. The Warden has the authority to require the removal of any items from vending machines that pose a risk to the safety and/or security of the institution.

15. DISPOSITION OF VENDING MACHINE INCOME FOR CLASS 1 AND CLASS 2 MACHINES

a. Vending machine income is defined as the net income from a vending machine operation remaining after subtracting the cost of the vending operation.

(1) Where vending machines are operated, serviced, or maintained by a commercial vending company, vending machine income is the commission paid by the commercial vending company less the cost of space rental due to the government.

(2) Where vending machines are operated, serviced, or maintained by other than a commercial vending company, vending machine income is the receipts from vending machine operations after deducting the cost of goods sold, including reasonable service and maintenance costs and the cost of space rental due to the government.

b. If a SLA licenses a blind vendor to operate the Class 1 and Class 2 vending machines at a Bureau institution, all vending machine income generated by Class 1 and Class 2 vending operations at the institution will accrue to the SLA for distribution to the blind vendor.

c. If, in accordance with Section 14.d. above, an employee organization decides to provide Class 1 and Class 2 vending services at a Bureau institution, the employee organization must deposit

15 percent of the vending machine income into the inmate Trust Fund.

The employee organization must make payments to the inmate Trust Fund in accordance with the Program Statement **Trust Fund/Deposit Fund Manual**. The disbursement covering the vending machine income being shared with the inmate Trust Fund must be made payable to the Bureau and furnished to FMD for deposit into the Trust Fund appropriation. FMD staff must follow the instructions contained in the Program Statement **Imprest Funds, Collections, and Deposits**, regarding disposition of these funds.

d. In accordance with Section 14.d. above, if an employee organization decides to provide Class 1 and Class 2 vending services at a Bureau institution, it will annually determine the amount of Class 1 and Class 2 vending machine income it expects to generate during the coming year. This determination must be based on an analysis of the institution's Class 1 and Class 2 vending machine income receipts for the prior government fiscal year.

- (1) If an employee organization determines the vending machine income from the Class 1 and Class 2 vending machines at the institution will exceed \$3,000, the employee organization must pay quarterly to the SLA 50 percent of the vending machine income generated by the Class 1 and Class 2 vending machines. If, however, 50 percent of the total hours worked at the Bureau institution occur during periods other than the normal institution working hours, the employee organization must pay quarterly to the SLA 30 percent of the vending machine income generated by the Class 1 and Class 2 vending machines. The payment must be made by the employee organization and verified by the institution's FMD during the month following the last month of each quarter of the government's fiscal year (i.e. January, April, July, October).
- (2) If an employee organization determines the vending machine income from the Class 1 and Class 2 vending machines at the institution amounts to \$3,000 or less annually, the employee organization must submit this determination in writing, together with all supporting documentation to the institution's FMD. If the Business Administrator concurs with this determination, the employee organization is not required to share vending machine income with the SLA. If the vending machine income generated by the Class 1 and Class 2 vending machines exceeds \$3,000 at the end of the year, the employee organization must pay either 50 percent or 30 percent of this income to the SLA in accordance with subsection d.(1) above.
- (3) If an employee organization determines it cannot estimate the amount of vending machine income the Class 1 and Class 2 vending machines will generate because there is no prior history of Class 1 and Class 2 vending operations at the institution, the employee organization must submit this determination in writing to the institution's FMD. If the Business Administrator concurs with this determination, the employee organization will not be required to make quarterly payments to the SLA during the first year in which it

conducts Class 1 and Class 2 operations. In lieu of the quarterly payments, the employee organization must make an annual payment to the SLA, if the vending machine income generated by the Class 1 and Class 2 vending machines exceeds \$3,000 at the end of the first year. In accordance with subsection d.(1) above, this payment will be in the amount of either 50 percent or 30 percent of the vending machine income generated.

e. If the employee organization at the institution provides Class 1 and Class 2 vending machine services, the vending machine income remaining after payment to the inmate Trust Fund and apportionment to the SLA as provided in subsections c. and d. above, is the income realized by the institution's employee organization.

Example 1: SLA licenses a blind vendor to operate the Class 1 and Class 2 vending machines at a Bureau institution.

Quarterly commissions from commercial vendor (Class 1)	= \$10,100
Less quarterly space rental (Class 1)	- 100
Total vending machine income (Class 1)	= \$10,000
Quarterly commissions from commercial vendor (Class 2)	= \$ 550
Less quarterly space rental (Class 2)	- 50
Total vending machine income (Class 2)	= \$ 500
Total vending machine income (Class 1 and Class 2)	= \$10,500
Vending machine income accruing to SLA	= \$10,500

Example 2: SLA determines the Class 1 and Class 2 vending opportunities at a Bureau institution will not support a blind vendor. The employee organization decides to provide Class 1 and Class 2 vending services. At least 50 percent of the total hours worked at the institution occur during periods other than the normal institution working hours.

Quarterly commissions from commercial vendor (Class 1)	= \$10,100
Less quarterly space rental (Class 1)	- 100
Total vending machine income (Class 1)	= \$10,000
Quarterly commissions from commercial vendor (Class 2)	= \$ 550
Less quarterly space rental (Class 2)	- 50
Total vending machine income (Class 2)	= \$ 500
Total vending machine income (Class 1 and Class 2)	= \$10,500
Less the amount due to the Trust Fund (15% x \$10,000)	- 1,500
Less amount the due to the SLA (30% x \$10,500)	- 3,150
Vending machine income accruing to employee organization	= \$ 5,850

f. The various registers and financial statements required by this program statement must be maintained in sufficient detail to permit required internal audits and reviews, and to support payments effected.

16. PETTY CASH FUND

A petty cash fund established for changemaking purposes at one or more stations throughout the institution must be properly secured. Funds must be kept in either a locked metal box, drawer, or other suitable container. The employee in possession of the funds at any given time is responsible for the total amount of funds advanced and for the accuracy of the transactions which are made. Shift-to-shift accountability should be considered if repeated differences occur.

The existence and amount of the petty cash fund must be reflected on the balance sheet. When the quarterly and annual balance sheets are prepared, the statements will be annotated to reflect the custodian and location of the petty cash fund. The financial officer of the employee organization must count and certify these funds quarterly.

17. AUDIT

An audit of all financial records is required annually. The audit must be performed by someone who is not an officer or a paid employee of the organization. It is recommended an independent audit be conducted by a certified public accountant. This is mandatory for all organizations with annual gross receipts of \$50,000 or more. Organizations must establish the calendar year as their fiscal year. The annual audit of employee organization records must be conducted between January 1 and May 15 of the subsequent year.

The audit of financial records must be performed in accordance with generally accepted auditing principles and standards.

REFERENCES

Program Statements

Imprest Funds, Collections, and Deposits
Trust Fund/Deposit Fund Manual
Fund-Raising By Employees

Federal Statues

Title 20 U.S.C. §107

Federal Regulations

5 CFR §735.201
41 CFR §102-74.405
26 CFR 1.501(a)-1
21 CFR Part 1140 Subpart A

ACA Standards

None

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on the Bureau's intranet site.