

10A NCAC 63C .0204 FILLING OF VACANCIES

- (a) The Division shall make available a listing of available Business Enterprises facilities to all licensees.
- (b) Licensees who wish to apply for any of the locations listed may forward an application to the office of the Chief of Business Enterprises.
- (c) Transfers and promotions shall be based on the following procedures:
 - (1) The Division shall send a notice of available facilities to all operators and licensees on the last 10 working day of the month. The notice shall provide a description of the vacancy and who to contact for more information.
 - (2) All applications shall be post-marked by the 10th of the month following the notice and mailed to the office of the Chief of Business Enterprises.
 - (3) The Interview Committee shall interview all applicants on the second Friday of the month which follows the application deadline.
 - (4) At least 10 working days prior to the interview, the Business Enterprises Counselor who works with the applicant shall calculate the applicant's points for sanitation, seniority, Financial Analysis/Operating Standards [Subparagraphs (d), (1), (2), (3) of this Rule] and inform the applicant of his point total. The applicant shall have five working days to review the point total and request any adjustments.
 - (5) After adding together the points from the sanitation, seniority, Financial Analysis/Operating Standards, Customer Relations and Oral Exam/Interview Sections [Subparagraphs (d), (1), (2), (3), (4), (5), (6), (7) of this Rule] for each applicant, the applicant with the highest point total (if above 60 points) shall be awarded the vacancy. If the applicant with the highest point total declines to accept the location, it shall be offered to the next highest applicant (if above 60 points) and so on. In the case of an exact tie, the applicant with the most time in the Business Enterprises Program shall be awarded the location.
 - (6) Applicants shall be notified as soon as possible after their interview whether or not they have been awarded a location. This notification shall be by telephone and followed up in writing.
 - (7) Upon being awarded a location, the applicant shall have 30 days to fill the vacancy. The Division shall agree to a different time frame if adhering to the 30-day time frame would cause a hardship to the applicant awarded the facility. The location shall not be filled for 15 working days following the award to allow time for administrative appeals to be filed. If an appeal is filed, the location shall not be filled until the appeal is resolved. If there is only one applicant for a location, the 15-day waiting period shall not apply.
 - (8) If an applicant is awarded a facility and has not had an Operator Agreement with the Agency in the last two years, and the applicant did not meet his financial analysis and operating standards for the last 12 months that his agreement was in effect, the applicant shall repeat the necessary on-the-job-training. The Interview Committee may also recommend refresher course training to assure qualified management.
 - (9) Licensees/operators not selected may file an administrative appeal as provided for in Subchapter 63C Section .0400. The fifteen-day limit to file an appeal shall begin from the date the licensee/operator is informed by telephone of the results of the award.
 - (10) An applicant must have operated a Business Enterprises location for six months prior to the cut-off date for calculating financial performance according to standards to be considered an operator, otherwise, the operator shall be in licensee status. The cut-off date is defined as the 12-month period ending with the last day of the same month in which the vacancy is advertised.
 - (11) If an operator leaves the Business Enterprises Program and then applies for a location within 12 months of leaving, his financial performance according to standards for the 12 months prior to his leaving shall be used to calculate points in the Financial Performance Section.
 - (12) Financial analyses of facilities shall be done every two years. The analysis shall be on the facility not the operator; however, an operator may request a new analysis after at least four months in the new facility. If an applicant's financial analysis is less than two years old and the applicant's performance is neither above 100 percent nor below 85 percent on either measure, the financial analysis is current.
 - (13) An applicant who does not hold the required level of license for the vacancy may be awarded the facility contingent upon successfully completing the required training. Applicants who hold the required level of license but have not operated a facility at that level for at least two years shall complete refresher on-the-job training if the applicant did not meet his financial analysis and operating standards for the last 12 months that his agreement was in effect.

- (14) An operator may not sit on the Interview Committee for a location for which he/she is applying or if a member of his/her immediate family has applied for a vacant facility. For this purpose immediate family is defined as spouse, parent, child, brother and sister. Also included are the step, half and in-law relationships. If the Vice-Chairman and the Chairman of the Elected Committee of Vendors and the Chairman of the sub-committee on Transfer and Promotion are all restricted from sitting on the Interview Committee under this Rule, those three must pick another Elected Committee of Vendors member to sit on the Interview Committee.
- (15) The schedule for awarding vacancies may be changed to accommodate holidays, too many applications to process in one day, or at any time necessary due to program conflicts as determined by the chief of Business Enterprises and the Vice-Chairman of the Elected Committee of Vendors. All applicants shall be notified in writing of the date, time and place of their interview.
- (16) Applicants shall be reimbursed for their expenses to come to the interview at the state's per diem rates. The Business Enterprises Program shall only reimburse for two interviews per year. After that, applicants shall bear their own expenses for coming to interviews. Licensees who have active rehabilitation cases shall be reimbursed through the rehabilitation program.
- (d) The Division shall use the following criteria in determining points:
- (1) Sanitation:
 - (A) Ten point maximum;
 - (B) One point for each sanitation grade point above ninety;
 - (C) Sanitation grade to be arrived at by averaging all sanitation scores received during last two years;
 - (D) Five points shall be subtracted for any adjusted B grade in the last two years;
 - (E) The Business Enterprises Counselor shall determine an adjusted grade by adding back in any points subtracted for deficiencies over which the operator has no control. The operator shall inform Business Enterprises Counselor when an inspection has occurred so he can review the inspection and adjust the grade if needed. The operator shall make sure the Business Enterprises Counselor has copies of every sanitation inspection form from the relevant period so that he or she can calculate an accurate grade.
 - (2) Seniority:
 - (A) Five point maximum;
 - (B) Seniority points shall be awarded as follows:

Years in Business Enterprises Program – Points
0 to 4.99 - 0 points
5 to 9.99 - 1 point
10 to 14.99 - 2 points
15 to 19.99 - 3 points
20 to 24.99 - 4 points
25 and over - 5 points
 - (C) Seniority is defined as the amount of time in yearly increments an individual has been working in the Business Enterprises Program as an operator. An operator must work 51 percent of the working days in a month to receive credit for that month. The cutoff date for accruing time in the Program is the end of the month when the vacancy is advertised. Business Enterprises operators shall receive credit for one year of seniority for any combined 12-month period.
 - (3) Performance According to Financial Analysis/Operating Standards: Operating standards are determined by tabulating all the invoices for purchases for resale for each facility for a period of three months. The optimum sales and gross profit percentage is determined by computing the maximum potential for sales and gross profit without consideration for theft, waste or poor management. Each operator is required to maintain 85 percent of the optimum standard established for each facility for sales and gross profit. Eighty-five percent of the optimum sales and gross profit percentage is considered the operating standard for each facility.
 - (A) 50 Points Maximum;
 - (B) Applicants shall receive 20 points for meeting or exceeding 85 percent of their sales standard;

- (C) Applicants shall receive 20 points for meeting or exceeding 85 percent of their gross profit percentage standard;
 - (D) Applicants shall receive five points for meeting or exceeding 92.5 percent of their sales optimum;
 - (E) Applicants shall receive five points for meeting or exceeding 92.5 percent of their gross profit percentage optimum.
- (4) Customer and Building Management Relations:
- (A) Five points shall be deducted for each written site management complaint in the past two years, up to a maximum of 10 points.
 - (B) If the applicant has more than three written site management complaints, he shall not be considered for the award. No site management complaint that is more than three years old may be used against an operator. Site management is defined as the property official for the property on which a BEP facility is located.
- (5) Oral Exam/Interview:
- (A) 30 points maximum.
 - (B) Interview shall be face to face (no conference calls).
 - (C) All applicants shall be interviewed.
 - (D) The Interview Committee shall consist of:
 - (i) The Chief of Business Enterprises, or Deputy Chief or Assistant Director of Programs and Facilities as designated by Chief,
 - (ii) The Area Rehabilitation Supervisor or B.E. Counselor for the area in which the vacancy occurs, and
 - (iii) The Vice-Chairman of the Elected Committee of Vendors or the Chairman in his absence, or in the absence of the Chairman, the Chairman of the Transfer and Promotion subcommittee.
 - (E) The Oral Exam part shall consist of 10 questions drawn either from a pool of standard questions or developed by the Interview Committee prior to the interview. The oral exam questions shall relate to any special needs of the vacant facility as well as to standard responsibilities and knowledge areas of Business Enterprises operators. Each member of the Interview Committee shall evaluate the applicant's response to each question in the oral exam. The applicant shall receive one point by demonstrating basic knowledge, the applicant shall receive one and one-half points for demonstrating above average knowledge, and the applicant shall be awarded two points for demonstrating exceptional knowledge for each interview question. There shall be at least one question involving a calculation and a talking calculator shall be provided, although applicants may bring their own. The oral exam shall yield a possible 20 points.
 - (F) The interview part shall consist of a variety of questions in a give and take format. Each member of the Interview Committee shall evaluate the applicant's response to the interview questions and shall award up to 10 additional points based on the applicant's previous food service experience, knowledge and financial performance. If the applicant meets the requirements for the facility, the applicant shall receive five additional points. If the applicant's qualifications exceed the requirements of the facility, he may be awarded up to ten additional points. The interview shall include the following elements: questions related to business philosophy to promote general discussion to enable the interview panel to evaluate the applicant's expertise, maturity, experience and ability; a discussion of any related work experience outside the Business Enterprises Program; at least two business math questions. Since points are awarded for seniority, time in the Business Enterprises Program shall not be considered as a reason to award points; however, relevant work experience in the Business Enterprises Program may be discussed and taken into consideration. Applicants may bring letters of recommendation, certificates, and other documents that would aid the Interview Committee in awarding its discretionary points.
 - (G) Each interviewer shall award discretionary points individually and the total score of Oral Exam and Interview points from each interviewer shall be averaged and added to the applicant's points from the other Sections.
- (6) Licensees and trainees:

- (A) A licensee who has no previous experience in the North Carolina Business Enterprises Program shall be assigned 35 points in the Financial Analysis/Operating Standards category. If the licensee scores 90 percent or above on the National Restaurant Association's ServSafe exam, he/she shall be awarded three points in the sanitation category.
- (B) A licensee with previous Business Enterprises experience shall be assigned 35 points in the Financial Analysis/Operating Standards category. Previous sanitation records shall be considered, if available; or the applicant may take the National Restaurant Association's ServSafe exam. If the licensee scores 90 percent or above on the ServSafe exam, he/she shall be given three points in the Sanitation Section.
- (C) Applicants shall have satisfactorily completed Level I training or have a Level I license to be interviewed. The four levels of Business Enterprises facilities are defined as follows: Level I has no cooking or on-site food preparation and includes only service via vending machines or over the counter service including snacks, candy, pre-packaged sandwiches, coffee, and assorted beverages. Level II service is similar to a deli operation where hot and cold food is prepared on site. Level III service includes all of the above with the addition of a grill and fryer. Level IV service consists of full-service cafeteria style facilities. An applicant shall score at least 60 total points to be awarded a location. If the applicant scores at least 55 points but less than 60 points, the interview panel may make a conditional award if the panel agrees it is in the best interest of the Business Enterprises Program.

*History Note: Authority G.S. 111-27; 143B-157; 20 U.S.C. sec. 107;
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