

1 **Methodology for Business Enterprises of Texas Randolph Sheppard Financial Relief and**  
2 **Restoration Payments (FRRP) Funds Distribution**  
3 **Discussion Paper**

4 **Background**

5 Congress has appropriated \$20 million under the Consolidated Appropriations Act, 2021,  
6 Division H, Title III, §318, to make onetime financial relief and restoration grants to state  
7 licensing agencies consistent with the purposes of the Randolph-Sheppard Act:

- 8 • to offset blind vendor losses that occurred during Calendar Year 2020 (CY’20) if those losses  
9 were not otherwise compensated; and
- 10 • for the set-aside purposes authorized by 34 Code of Federal Regulations (CFR) §395.9, but  
11 only if any funds remain after offsetting the losses incurred by blind vendors during CY’20.

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13 On January 26, 2021, the Rehabilitation Services Administration (RSA) issued preliminary  
14 information related to this appropriation, including the amount of financial relief and restoration  
15 payments (FRRP) funds that Texas will receive (\$1,243,001). RSA noted that approval of  
16 documentation outlining losses and the methodology for distributing FRRP to Business  
17 Enterprises of Texas (BET)–licensed managers is required prior to receiving the funds.

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19 On February 16, 2021, RSA provided further [guidance](#) including forms for states to document  
20 assurances that state licensing agencies (SLAs) will comply with the conditions listed for the  
21 distribution of federal funds and the proposed methodology for their distribution and use,  
22 developed with the active participation of the Elected Committee of Managers (ECM). RSA  
23 subsequently provided additional guidance in two Frequently Asked Questions (FAQ)  
24 documents. FAQ 21-04 was issued on March 12, 2021 and FAQ 21-06 was issued on June 14,  
25 2021.

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27 In FAQ 21-04, in response to Question 5 about whether certain types of benefits should be taken  
28 into account when determining if an individual was “otherwise compensated”, RSA provided an  
29 interpretation of the term “otherwise compensated”, noting that it is used “to refer to funds that a  
30 blind vendor received from another source to compensate for the loss”. RSA further clarified  
31 that “if a vendor was already receiving a certain benefit before the loss was incurred, then it  
32 should not be considered compensation because of the loss. If a vendor received a benefit after a  
33 loss was incurred, whether that benefit should be considered compensation should be a case-by-  
34 case determination depending on the benefit, the connection to the loss, and any other relevant  
35 circumstances”.

36  
37 For a five-month period from April through August 2020, BET licensed managers that reported  
38 monthly income less than \$2,720 received an emergency Income Replacement Payment (IRP), a  
39 cash payment from TWC of \$3,000 per month. On August 25, 2020, TWC’s three-member  
40 Commission approved distribution of nonfederal funds to replenish the BET trust fund, which  
41 was the source of funding for the first three months and extend the IRP benefit for two additional  
42 months. As a result, all five months of the BET IRP benefit were paid from nonfederal funds.

43  
44 The BET IRP benefit was established and paid in 2020 as an emergency income replacement  
45 payment to help offset licensed managers’ losses in CY ’20. The BET IRP benefit was distinct

46 from other funding sources, such as Social Security Disability Insurance (SSDI), Paycheck  
47 Protection Program (PPP) loans, and unemployment insurance, in that it was not insurance, was  
48 not a loan, and was not a prior benefit. Therefore, the BET IRP benefit aligns with the  
49 interpretation of the term “otherwise compensated” as provided by RSA.

## 51 **Issue**

52 Over the last three months, BET staff has worked with the ECM to prepare a proposed  
53 methodology for:

- 54 • documentation of BET-licensed manager losses during CY’20;
- 55 • declaration of loss replacement funds received as prior compensation; and
- 56 • the process for distribution of FRRP.

57  
58 RSA guidance presents conditions under which financial relief and restoration funds are  
59 available for TWC to make payments to offset losses. Only current BET-licensed managers are  
60 eligible to receive a FRRP distribution. Only losses incurred by BET-licensed managers during  
61 CY’20 that were not otherwise compensated are eligible. The majority of the 103 licensed  
62 managers in the BET program incurred losses resulting from the operation of their assigned  
63 facilities. RSA guidance requires TWC and ECM to develop a methodology to determine which  
64 managers are eligible to receive FRRP and to present the proposed methodology to RSA for  
65 approval.

66  
67 To determine the distribution methodology for FRRP funds, BET and ECM reviewed the  
68 monthly profit reports submitted by BET-licensed managers for CY’19 and CY’20. Loss  
69 amounts for purposes of FRRP calculations are the difference between total reported profits in  
70 the two years. Available distribution per individual manager was calculated by dividing the  
71 allotted \$1,243,001 of FRRP available to TWC by the total amount of reported losses for all  
72 qualified managers. The resulting factor is 25.83 percent without including the BET IRP as prior  
73 compensation. The factor is 34.34 percent if the BET IRPs are included as prior compensation.

74  
75 The proposed methodology below is similar to those already submitted by other states and  
76 approved by RSA.

### 78 FRRP Distribution Methodology Option 1

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80 If BET IRPs provided by TWC during CY’20 are included as prior compensation, the  
81 distribution methodology formula is as follows:  
82  $((2019 \text{ Reported Profit} - 2020 \text{ Reported Profit}) - \text{Total IRPs}) \times .3434 = \text{FRRP to BET-Licensed}$   
83 *Manager*

84  
85 The number of BET-licensed managers eligible to receive an individually determined FRRP  
86 distribution under Option 1 is 84. Under this option, the FRRP to each eligible manager will  
87 increase by 8.51 percent over Option 2.

### 89 FRRP Distribution Methodology Option 2

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91 If BET Income Replacement Payments provided by TWC during calendar year 2020 are  
92 excluded as prior compensation, the distribution methodology formula is as follows:

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94  $(2019 \text{ Reported Profit} - 2020 \text{ Reported Profit}) \times .2583 = \text{FRRP to BET-Licensed Manager}$

95  
96 Under this option, 92 BET licensed managers would receive an individually determined FRRP  
97 distribution. Although eight more managers would receive FRRP funds compared to Option  
98 1, the 92 managers would receive a FRRP that is 5.81 percent less of their reported losses.

99  
100 BET staff and ECM agreed on all components of the methodology except for whether to include  
101 as prior compensation the BET IRP paid to licensed managers during CY'20. Staff concluded  
102 that the BET IRP benefit was a source of funding by which managers were otherwise  
103 compensated for their losses in accordance with RSA guidance, and should be included as  
104 proposed in Option 1. The ECM proposes Option 2, which would exclude BET IRP funds from  
105 the determination of prior compensation and allow more managers to receive an FRRP  
106 distribution. BET staff do not believe that continued meetings with the ECM will produce an  
107 agreement on this matter.

108  
109 **Decision Points**

110 Staff seeks direction on the selection of Option 1 as the methodology by which FRRP funds will  
111 be distributed to eligible BET-licensed managers.

112  
113 Additionally, staff seeks direction on approval to submit the FRRP application to RSA using the  
114 selected methodology.