



## Ohio Administrative Code

### Rule 3304:1-21-03 Facility and site announcements, application procedure, and selection.

Effective: [September 22, 2022](#)

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(A) Whenever a facility or site becomes available or is proposed to become available, BE shall first determine whether a temporary bureau operator agreement is required to ensure continued operations as outlined in paragraph (E) of rule 3304:1-21-06 of the Administrative Code. If continued operations are not required, BE shall determine with active participation from OVRC whether the facility or site should be attached to another facility, split into separate sites, reconfigured, abandoned, posted, or placed under a TBOA.

(B) A selection panel will develop a facility or site announcement. An announcement of the facility or site opportunity shall be reviewed by the current operator, if available, and include the following elements:

- (1) The name, address, and facility number if applicable;
- (2) Whether the facility or site is on governmental property, federal property, or non-priority property;
- (3) The date and time that an application and supporting documents must be received to be considered timely;
- (4) The contact information of the designated BE representative where facility or site applications are to be sent for consideration;
- (5) The estimated starting date for the new operator;
- (6) A general description of the facility or site describing the space, equipment present, the types of goods sold, and an estimate of the number of customers served daily;
- (7) An opening day minimum cash requirement and approximate initial inventory amount;



- (8) Information about whether onsite storage space is available or if the operator must provide offsite storage and product transport;
  - (9) If available, the reported yearly total receipts and gross and net proceeds for three preceding calendar years;
  - (10) The days and hours of operation;
  - (11) The number of employees presently employed, with notation that persons who are blind or otherwise disabled and are qualified for the job shall be given preference when hiring in any BE facility or site;
  - (12) If applicable, the availability to tour the facility or site and the availability of public transportation;
  - (13) Any security clearances or other special requirements required by the BGA;
  - (14) Fees, assessments, financial obligations, and other specific items required by the BGA; and
  - (15) Any other documentation or information deemed relevant by the selection panel.
- (C) BE shall post the announcement for at least twenty-one calendar days.
- (D) All applications for a facility or site posting must be submitted on the form prescribed by the BE program. Applications should be complete, timely, and submitted to the appropriate BE representative as indicated in the posting.
- (E) A selection panel by majority vote shall determine whether an application for a facility or site is ineligible. Any application deemed to be ineligible shall be removed from consideration and the applicant shall receive no further consideration for the facility or site posting. An application shall be deemed ineligible for any of the following reasons:



- (1) The applicant is not licensed by the BE program or whose license is inactive;
  - (2) The applicant fails to submit a completed application on a form prescribed by BE;
  - (3) The applicant has past due program charges as of the application deadline;
  - (4) The application is untimely or is not sent to the correct address as listed in the posting;
  - (5) The applicant attempts to obtain the facility or site through fraud, falsification, or criminal activity; or
  - (6) An applicant shall be ineligible to return to a facility or site when a BGA, contract, or permit that the applicant operated under has been terminated, or the applicant has resigned in lieu of termination, due to operator non-compliance with a BGA, contract, or permit or the applicant has resigned in lieu of termination.
- (F) If at the end of the twenty-one days there is no eligible applicant, BE shall actively participate with the local selection committee to determine if the facility or site should be reposted or placed under a TBOA. If a determination is made not to repost, BE shall actively participate with OVRC to determine whether the facility or site should be attached to another facility, split into separate sites, reconfigured or abandoned.
- (G) When there is more than one eligible applicant for a facility, the selection panel shall evaluate each eligible applicant and award the facility to the candidate that accumulates the most points as determined below:
- (1) If the applicant has been a BE licensee for less than one year, add one point; or
  - (2) If the applicant has been a BE licensee for between one year and five years, add two points; or
  - (3) If the applicant has been a BE licensee for more than five years, add three points;
  - (4) If the applicant has no late reports, or payments in the most recent twelve months under a BOA



or TBOA of the past twenty-four months prior to the application deadline, add four points; or, if the applicant has no more than one late report or payment in the most recent twelve months under a BOA or TBOA of the past twenty-four months prior to the application deadline, add two points;

(5) If the applicant has no operator performance improvement plans in the twelve months of operation in the BE program preceding the application deadline, add one point;

(6) If the applicant has no operator performance improvement plans in the twenty-four months of operation in the BE program preceding the application deadline, add one point;

(7) If the applicant has managed a facility for a minimum of one year with the same service format, add two points;

(8) If the facility posting is under a BGA with veteran affairs services, and the applicant submits a DD form 214 indicating a general discharge under honorable circumstances, add one point;

(9) Applicant has supplied the selection panel documentation demonstrating attendance at an upward mobility training in the twenty-four months prior to the application deadline, add one point for each with a maximum of four points;

(10) Applicant attends at least one entire statewide conference in the last twenty-four months, add two points.

(H) In case of a tie in point totals, the selection panel shall award a facility to the applicant with the most seniority in accordance with the seniority list managed by BE. BE shall maintain and update the licensee seniority list quarterly. If both applicants remain tied after seniority is considered, the selection panel shall draw lots to determine which applicant shall be awarded the facility.

(I) If the successful applicant declines to accept a facility, it shall be awarded to the applicant with the next highest point total. Any ties shall be broken as outlined in paragraph (H) of this rule.

(J) When there is more than one eligible applicant for a site, the selection panel shall evaluate each eligible applicant and award the site based on a majority vote after considering:



- (1) The net incomes of each facility or sites;
  - (2) The distance of the site from a licensee's existing facility; and
  - (3) Similarities between the type of operation or products sold and an applicant's existing facility or sites.
- (K) If a successful applicant declines to accept a site or is determined ineligible to accept a site, the selection panel shall reconvene if more than one candidate remains and award the site based on a majority vote after considering the criteria outlined in paragraph (J) of this rule. If only one eligible applicant remains the selection panel shall award the site to that applicant.
- (L) In the event of a tie between two or more operators, the available site will be awarded by drawing lots.
- (M) If a licensee wishes to detach a site from their facility they must submit a request in writing to the BE program manager. BE will work with OVRC and the licensee to accommodate their request as quickly as possible while also ensuring compliance with any existing bureau-grantor agreement and bureau-operator agreement that may be affected.
- (N) If a local selection committee determines that an awarded operator has not transitioned in a timely manner the local selection committee may determine if they should repost or extend the time for transition.