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OPINION COMMITTEE

# Texas Commission for the Blind

TERRELL I. MURPHY  
Executive Director

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November 6, 2003

**RQ-0134-GA**

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FILE # ML-43348-03

I.D. # 43348

The Honorable Greg Abbott  
Attorney General of Texas  
P.O. Box 12548  
Austin, TX 78711-2548

FILE # \_\_\_\_\_  
I.D. # \_\_\_\_\_

Dear General Abbott:

I am requesting your official opinion on the following matter. It concerns an apparent conflict between state and federal law.

The Texas Commission for the Blind administers the Business Enterprises of Texas (BET) program under the federal Randolph Sheppard Act, 20 U.S.C. § 107, *et seq.* This is the program that allows qualified blind licensees to manage cafeterias and vending facilities in state and federal buildings. In §107 b-1 of the act, it provides as follows:

**Sec. 107 b-1 Access to information with State licensing agencies; election and responsibilities of Committee of Blind Vendors.**

In addition to other requirements imposed in this title and in this chapter upon State licensing agencies, such agencies shall--

- (1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports, on the operation of the State vending facility program;

The Code of Federal Regulations for the program (34CFR395) provides the following further clarification:

**Sec. 395.12 Access to program and financial information.**

Each blind vendor under this part shall be provided access to all financial data of the State licensing agency relevant to the operation of the State vending facility program, including quarterly and annual financial reports, provided that such disclosure does not violate applicable Federal or State laws pertaining to the disclosure of confidential information. Insofar as practicable, such data shall be made available in braille or recorded tape. At the request of a blind vendor State licensing agency staff shall arrange a convenient time to assist in the interpretation of such financial data.

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As required by this provision, the Commission has regularly provided financial reports to the blind licensees at no cost to them, in accessible format, either braille or computer disk.

More recently, the Commission has received requests from licensees that go beyond the type of data and financial reports normally maintained by the Commission. The provision of these reports requires programming and manipulation of data at some expense to the Commission. I have determined that the costs of providing this information is the type of expense that may be charged to the requestor under the Texas Public Information Act (PIA), and have requested a deposit of the estimated charges before the information is furnished. The requestor has objected, citing his rights under the Randolph Sheppard Act.

It is the position of the Commission that these two laws may be construed together without difficulty. We recognize the special right of access that the requestor has under the federal law, and will provide information not confidential under state or federal law. However, there is nothing in the federal law that preempts the Commission's right under the PIA to recover direct costs in providing information that is not readily available, and requires programming and manipulation of data.

This issue may seem minor, but the volume and complexity of information requests the Commission has received concerning this issue make us think the amounts involved will be of significance to the agency. Because several requests are pending from two licensed managers that may involve charges, I would appreciate your prompt attention to this request.

Sincerely,

  
Terrell I. Murphy  
Executive Director