

TITLE 192 NAC NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
CHAPTER 3- BLIND VENDOR PROGRAM

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TITLE 192- NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY
IMPAIRED
CHAPTER 3- BLIND VENDOR PROGRAM

001 Scope and Authority: The regulations govern the Blind Vendor's Program, which was created by the Randolph-Sheppard Act. This program seeks to aid blind persons by providing needed rehabilitation and employment opportunities. The program aims to improve the image of blind persons by giving them the opportunity to interact with their community while providing a necessary service.

These regulations are authorized by the Nebraska vocational rehabilitation small business enterprises statutes, Nebraska Revised Statutes Sections 71-8610 to 71-8613, and Sections 71-8615 and 71-8616 and meet the requirements of the Randolph-Sheppard Act, 20 U.S.C. § 107 et seq., and federal regulations at 34 CFR 395 (as amended 1987) [Appendix B].

002 Definitions:

002.01 Active Participation shall mean the informed involvement that allows meaningful input into State Licensing Agency decisions. Active participation does not mean joint or equal decision-making authority.

002.02 Blind person shall mean, for purposes of obtaining a license from the State Licensing Agency to operate a vending facility on federal or other property, a person who, after examination by a physician skilled in diseases of the eye or by an optometrist, at the applicant's option, has been determined to have:

002.02A Not more than 20/200 central visual acuity in the better eye after correction; or

002.02B An equally disabling loss of the visual field in which the widest diameter subtends an angle no greater than 20 degrees.

002.03 Blind Vendors Committee shall mean the committee created and defined in Section 006, pursuant to 20 U.S.C. 107b-1.

002.04 Federal property shall mean any building, land, or other real property owned, leased, or occupied by any department, agency or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the

District of Columbia or any territory or possession of the United States.

002.05 Final Administrative Decision shall mean:

002.05A. For purposes of state court judicial review, the decision rendered by the Executive Director of the State Licensing Agency or his or her designee after a full evidentiary hearing; or the decision of the Executive Director of the State Licensing Agency after he or she has reconsidered a grievance based upon the decision rendered by the Secretary as provided in 012.02; or

002.05B. For purposes of federal court judicial review, the decision rendered by the Secretary of Education upon appeal as provided in 012.02.

002.06 Management services shall mean supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other similar services provided on a systematic basis to support and improve vending facilities operated by blind vendors. Management services do not include those services or costs that pertain to the ongoing operation of an individual facility after the initial establishment period, such as bookkeeping, purchasing, and routine care of equipment.

002.07 Net proceeds shall mean the amount remaining from the sale of articles or services of vending facilities, and any vending machine or other income accruing to blind vendors after deducting the cost of such sale and other expenses (excluding set-aside charges required to be paid by such blind vendors).

002.08 Permit shall mean the official approval given the state licensing agency by a department, agency or instrumentality in control of the maintenance, operation, and protection of federal property, or person in control of other property, whereby the state licensing agency is authorized to establish a vending facility.

002.09 Set-aside funds shall mean funds that accrue to the state licensing agency from an assessment against the net proceeds of each vending facility in the state's vending facility program and any income from vending machines on federal property that accrues to the state-licensing agency. Contributions to set-aside funds shall not be deducted from receipts when calculating net proceeds or net profits.

002.10 State Licensing Agency (SLA) shall mean the Nebraska Commission for the Blind and Visually Impaired.

002.11 Vending facility shall mean shelters, counters, shelving, display and wall cases, refrigerating apparatus, and other appropriate auxiliary equipment necessary for the vending of articles approved by the office, agency, or person having control of the property on which the vending facility is located; and manual or coin-operated vending machines or similar devices for vending articles approved by the office, agency, or person having control of the property on which the vending facility is located.

002.12 Vending machines shall mean for the purpose of assigning vending machine income under this part, manual or coin-operated vending machines or similar devices for vending articles approved by the office, agency, or person having control of the property on which the vending facility is located.

002.13 Vending machine income shall mean receipts (other than those of a blind vendor) from vending machine operations on federal property, after deducting the cost of goods sold (including reasonable service and maintenance costs in accordance with customary business practices of commercial vending concerns), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind vendor) by a commercial vending concern which operates, services, and maintains vending machines on Federal property for, or with the approval of, a department, agency, or instrumentality of the United States.

003 Issuance Of Licenses

003.01 Requirements for Licensing: The State Licensing Agency may issue licenses to those persons meeting the following requirements:

003.01A. Blind as defined by these rules and regulations under 002.02;

003.01B. Citizen of the United States;

003.01C. Certified by the state vocational rehabilitation agency as qualified to operate a vending facility; and

003.01D. At least 19 years of age.

003.02. Qualifications for Training: To be eligible for selection, training, and licensing as a vendor, an

individual must give evidence of being or able to become:

003.02A. Sufficiently intelligent to grasp the fundamentals of vending facility operation;

003.02B. Sufficiently careful about his or her appearance and manners as to be able to meet and interact with the public;

003.02C. Honest and careful in handling sums of money;

003.02D. Willing to work hard to advance in the vending facilities program, improve business and develop maximum vocational potential;

003.02E. Competent in maintaining business records and accounts;

003.02F. Able to control inventory;

003.02G. Able to work with other business persons, including supervisors, jobbers and others in the business community;

003.02H. Able to recognize and where reasonably feasible, correct machine problems;

003.02I. Able to reflect favorably on the competence of blind persons in the eyes of the public by handling business and relations with the public in a competent manner.

003.03. Preference to Blind Persons in Need of Employment: The State Licensing Agency, in issuing licenses to operate vending facilities, shall give preference to blind persons who are in need of employment.

003.04. Duration and Termination of Licenses: The State Licensing Agency shall issue all licenses for an indefinite period, subject to suspension or termination by the SLA if, after affording the vendor an opportunity for a full evidentiary hearing as provided under 012, the SLA finds that the facility is not being operated in accordance with its rules and regulations, the terms and conditions of the permit, and the terms and conditions of the agreement with the blind vendor (pursuant to Section 009; ref. Appendix A).

003.04A. A license may be terminated or suspended for any of the following reasons:

003.04A1. Improvement of vision so that the vendor no longer meets the definition of blindness found in these regulations;

003.04A2. Failing to personally operate the assigned facility as set forth in the permit or contract for any reason, unless approved in writing by the SLA;

003.04A3. Any leave, sick or vacation, requires notification of the SLA to prevent consideration of abandonment. Any unexplained or unexcused absence for more than five days shall be considered as abandonment and failing to personally operate the assigned facility unless another person is covering the business and approved by the SLA. Extended illness of more than thirty (30) days resulting in incapacity of the vendor to operate the vending facility must be documented, and reviewed by the SLA Director for possible reassignment of the facility. ; or

003.04A4. Evidence that the vendor does not meet one or more of the criteria under 003.01 and 003.02.

003.04A5. Failure to submit the required monthly reports, to the SLA by the 20th of the succeeding month, in two consecutive months or for three or more months in a 12 month period.

003.04A5(a). The Blind Vendors Committee may review reports from the SLA of such failure and make recommendations of administration action to be imposed.

003.04B. Administrative Actions will be imposed on the vendor for any of the above reasons according to policy decisions recommended by the Blind Vendors Committee and approved by the SLA; as follows:

003.04B1. Written reprimand;

003.04B2. Probation;

003.04B3. Loss of Facility;

003.04B4. Termination.

003.04C. A license may not be sold or assigned and will automatically terminate upon the death of the blind vendor.

004. Vending Facility Equipment And Initial Stock

004.01. Furnishing of Facility Equipment and Initial Stock: The State Licensing Agency shall provide adequate and suitable equipment necessary for the operation of each vending facility. The SLA shall also furnish each facility with the initial stock of merchandise to establish the facility.

004.02. Ownership of Facility Equipment and Stock: All initial vending facility equipment and stock is and shall remain the property of the State of Nebraska while it is being used in the blind vendor's program, unless otherwise provided by Nebraska law.

005. Maintenance And Replacement Of Equipment

005.01. SLA Shall Maintain and Replace: The State Licensing Agency shall maintain (or cause to be maintained) all vending facility equipment in good repair and in an attractive condition and shall replace or cause to be replaced worn-out and obsolete equipment as required to ensure the continued successful operation of the facility.

005.02. Vendor Shall Take Reasonable Care and Make Minor Repairs: Each vendor, as a part of his or her day-to-day duties, shall take reasonable care of the equipment in his or her vending facility and, notwithstanding anything in 005.01, is responsible for routine maintenance and minor repairs, provided that no expenses are incurred by the vendor.

006. The Committee Of Blind Vendors

006.01. Composition of Committee: The State Licensing Agency shall form a State Committee of blind vendors consisting of a minimum of five members (pursuant to current Bylaws of the Committee) to be elected at a general meeting of all vendors in May of each odd-numbered year. As much as possible, membership must be representative of vendor population in terms of such factors as geography, gender, and vending facility type with a goal of providing for proportional representation of blind vendors on federal property and blind vendors on other property.

006.02. Voting: Every vendor licensed by the State Licensing Agency is entitled to vote and no vendor may be denied his or her vote for the nonpayment of dues or any other dues or any other fees. If any vendor is not able to attend the meeting, the State Licensing Agency shall poll and record his or her vote before the election becomes final.

006.02A. Any licensed vendor may submit his or her name as a candidate for election to the Committee to the State Licensing Agency. The submissions must be received by the SLA no later than the last day of April. If five or more names have been submitted, the State Licensing Agency shall make the list of candidates available to all licensed vendors not later than the 7th day of May. If fewer than five names are submitted prior to the last day of April, the SLA shall consult with the existing Committee of Blind Vendors to persuade one or more additional licensed vendors to be candidates for election to the Committee.

006.02B. Once five or more nominations have been submitted, the SLA shall prepare a ballot containing the names of all candidates and distribute ballots to all licensed blind vendors. Each vendor may vote for five or fewer candidates (or more pursuant to 006.01). The SLA shall certify the candidates with the highest total of votes as the elected Committee of Blind Vendors at the spring meeting. Ties will be broken by secret ballot or show of hands at the spring meeting. Any vendor may request Secret-Ballot ballots.

006.03. Committee Shall Choose Officers: At the earliest convenient time, the elected members of the committee shall meet to choose officers.

006.04. Meetings with Executive Director: The committee shall meet with the Executive Director of the State Licensing Agency or his or her designated representative on a quarterly basis. Either the committee or the State Licensing Agency may request a special meeting at any time and, if agreed upon between the parties, the SLA shall arrange the meeting.

006.05. Vacancies: In the event of a vacancy occurring on the committee, the State Licensing Agency shall promptly provide for an election, conducted by either mail or phone canvass, to fill the vacancy. The person elected to fill the vacancy shall serve for the unexpired portion of the term.

006.06. Minutes: The appropriate officer of the committee shall keep the minutes of each regular and special meeting and make them available for public inspection in accordance with the Public Meeting Law; Nebraska Revised Statutes Section 84-1413 within ten working days after the meeting. The State Licensing Agency shall duplicate the minutes and distribute them to all vendors. If any vendor requests that minutes be provided in Braille, recorded or electronic format, the State Licensing Agency will fill that request.

006.07. Open Meeting: All meetings of the committee are open to the public in accordance with the Public Meeting Law, Nebraska Revised Statutes Section 84-1408, except as allowed in accordance with Nebraska Revised Statutes Section 84-1410.

006.08. Quorum and Bylaws: For the purpose of transacting business, a quorum shall consist of a simple majority of the committee. The committee shall establish procedural bylaws in order to facilitate the conduct of meetings and other business.

006.09. Responsibilities of the Committee: The Committee of Blind Vendors shall:

006.09A. Actively participate with the State Licensing Agency in major administrative decisions and policy and program development decisions affecting the overall administration of the Nebraska vending facility program;

006.09B. Receive and transmit to the State Licensing Agency any grievance of a blind vendor who so requests and serve as advocate for such vendor in connection with such grievance if the grievant so requests, as provided in 012;

006.09C. Actively participate with the State Licensing Agency in the administration of a system for the transfer and promotion of blind vendors as provided in 010;

006.09D. Actively participate with the State Licensing Agency in the development of training and retraining programs for blind vendors;

006.09E. Sponsor, with the assistance of the State Licensing Agency, meetings and instructional conferences for blind vendors within the state;

006.09F. Actively participate with the State Licensing Agency in determining set-aside charges as provided in 007;

006.09G. Actively participate with the State Licensing Agency in developing operating agreements as provided in 009;

006.09H. Carry out any similar functions that the committee and the State Licensing Agency find appropriate.

007. Set-Aside Funds

007.01. Amount of Set-Aside Funds: The State Licensing Agency shall determine annually with the active participation of the Committee of Blind Vendors, the percentage of the net proceeds of each vending facility that shall accrue to the State Licensing Agency.

007.02. Use of Set-Aside Funds: The State Licensing Agency shall establish, with the active participation of the Committee of Blind Vendors, a set-aside schedule which covers the purposes for which any and all set-aside funds are used and the method of determining the charge for each intended purpose.

007.02A. Funds Shall be set aside in accordance with this rule for any of the following purposes:

equipment; 007.02A1. Maintenance and replacement of

007.02A2. Purchase of new equipment;

007.02A3. Management services;

vendors; 007.02A4. Assuring a fair minimum return to

007.02A5. Establishment and maintenance of retirement or pension funds, health insurance, and paid sick leave, and/or vacation time, if it is so determined by a majority vote of blind vendors licensed by the State Licensing Agency, after such agency provides to each such vendor information on all matters relevant to such proposed purposes.

007.02B. The conditions of 007.02A5 having been

satisfied, there is hereby established a retirement plan for blind vendors with contributions from each blind vendor who chooses to participate being matched with an equivalent approved contribution from the Small Business Enterprise Cash Fund, said amount to be reviewed annually by the State Committee of Blind Vendors and the State Licensing Agency.

007.02C. Set-aside funds may not be used for any purpose not listed in 007.02A.

007.02D. The State Licensing Agency shall keep and maintain adequate record to support the reasonableness of each charge in the set-aside scheduled for each of the purposes listed in 007.02A. The State Licensing Agency shall submit any and all charges in the set-aside schedule to the Commissioner of the Federal Rehabilitation Services Administration for approval prior to taking effect.

007.02E. The State Licensing Agency shall design the set-aside scheduled to prevent, so far as is practicable, a greater charge for any purpose than is reasonably required. Allowances must be made for the retention of reasonable reserves necessary to assure that each such purpose can be provided on a continuing basis.

008. Vending Machine Income

008.01. Income Accrues to State Licensing Agency: All vending machine income from vending machines on federal property which is disbursed to the State Licensing Agency by a property managing department, agency or instrumentality of the United States under the vending machine income sharing provisions in 34 CFR 395 (as amended 1987) shall accrue to each blind vendor operating a vending facility on such federal property.

008.02. Income Ceiling: The amount of the vending machine income accruing to an individual blind vendor is not to exceed the average net income of blind vendors within the state. The average net income must be determined each fiscal year on the basis of each prior year's operation, except:

008.02A. Vending Machine Income shall not accrue to any blind vendor in any amount exceeding the average net income of blind vendors in the United States.

008.02B. No Blind Vendor shall receive less vending machine income than he or she received during the

calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ceiling.

008.02C. No Limitation When Machines are Part of a Facility: The State Licensing Agency shall not impose a limitation on income from vending machines combined to create a vending facility when such facility is maintained, serviced, or operated by a blind vendor.

008.02D. Excess Retained by SLA: The State Licensing Agency shall retain vending machine income disbursed by a property managing department, SLA, or instrumentality of the United States in excess of the amounts eligible to accrue to blind vendors. The State Licensing Agency shall use the income for:

008.02D1. The establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for blind vendors, if it is so determined by a majority vote of the licensed vendors, after each vendor has been furnished information on all matters relevant to such purposes;

008.02D2. Any vending machine income not necessary for such purposes shall be used for one or more of the following: maintenance and replacement of equipment; purchase of new equipment; management services, and assuring a fair return to vendors; and that any assessment charged to blind vendors shall be reduced pro-rata in an amount equal to the total of such remaining vending machine income.

008.03. Disbursement at Least Quarterly: The State Licensing Agency shall disburse vending machine income to blind vendors within the state on at least a quarterly basis and shall inform vendors of the disbursement schedule.

009. Operating Agreements

009.01. Development: The State Licensing Agency shall develop, with the active participation of the Committee of Blind Vendors, an operating agreement to be entered into between the State Licensing Agency and each blind vendor (Appendix A).

009.02. Provisions: The agreement must provide:

009.02A. The duties of the vendor and the performance of such duties in accordance with standards for vendors, developed with the active participation of the Committee of Blind Vendors, and prescribed by the SLA and with any applicable health laws and regulations of the federal or other SLA or organization in control of the site of the vending facility;

009.02B. The responsibilities of the SLA in providing management services and supervision to the vendor;

009.02C. That the vendor shall receive the net proceeds from the vending facility he or she operates;

009.02D. That the vendor shall furnish any reports that the SLA shall require;

009.02E. That the vendor may voluntarily terminate the operating agreement by notifying the director at least thirty days prior to the termination if reasonably feasible;

009.02F. That the agreement shall terminate upon the failure of the vendor to operate the facility in accordance with applicable federal, state or local law or regulations or the provisions of the agreement after an opportunity for a hearing pursuant to 012, if appropriate, or under any of the circumstances specified in 003.04.

010. Transfers And Promotion Of Vendors

010.01. Notification to all Blind Vendors: Whenever a new facility is to be established or a vacancy occurs in an existing facility, the State Licensing Agency shall notify all blind vendors in a reasonable time of the opening.

010.02. Bidding for the Facility Opening: The State Licensing Agency shall establish a procedure whereby all blind vendors, if they so desire, may submit a bid to the State Licensing Agency requesting that they be placed in the available facility and including a short statement of why they wish to be so placed.

010.02A. The State Licensing Agency shall submit each bid received to the Committee of Blind Vendors for their recommendation.

010.02B. The Committee shall forward its recommendation to the State Licensing Agency in writing with the reasons for the recommendation. The State Licensing Agency shall review any recommendation for consideration, together with the reasons provided by the State Committee of Blind Vendors. In the event that the State Licensing Agency does not accept the recommendation of the Committee, it shall provide in writing to the Committee its reasons for not accepting its recommendations.

010.02C. In making its recommendations, the committee shall assess the qualifications of all those who have submitted bids according to any or all of the following criteria and any others that seem to be reasonably significant:

- 010.02C1. Length of experience as a vendor;
- 010.02C2. Demonstrated business competence;
- 010.02C3. Need for income improvement;
- 010.02C4. Dependability; and
- 010.02C5. Honesty.

010.02D. The Committee may, if it chooses, interview any candidates who submit bids and may be granted access to financial records of any applicant who gives written permission.

010.03. Appeal: Any individual who has bid and has not been successful may utilize the procedures for appealing State Licensing Agency decisions found in these regulations.

010.04. Notice to eligible candidates: Vocational Rehabilitation Counselors of the SLA will give notice of any remaining openings to eligible persons who are interested in becoming a blind vendor. Training pursuant to Section 011 will be required to enter the program.

011. Training In The Blind Vendor Program

011.01. Training Provided to Blind Persons: The State Licensing Agency shall provide training to all blind persons with the capacity and desire to operate a vending facility program, including on-the-job training in all aspects of vending facility operation. Such training may be a part of the general rehabilitation program and all training must be

part of the Individualized Plan for Employment of the candidate and must be developed on an individual basis. The prospective trainee will be evaluated for blindness and math skills necessary to accomplish the objectives of Section 003.02 during a three-day evaluation period at the Commission's Orientation Center for the Blind. Training will be provided in areas identified as needing further instruction. Examples of further instruction include, but are not limited to the following: mobility, braille, computer, life skills, shop, bookkeeping, math, and vending repair. The training for each individual shall include a probationary period not to exceed 90 days after the individual is placed in a vending facility, during which time there must be written evaluations of progress on at least a monthly basis. At the end of this probationary period, subject to satisfactory results of the periodic evaluations, the State Licensing Agency shall issue a license to operate the vending facility, in accordance with applicable rules and an operator's agreement.

011.02. Assistance of Vendors: The State Licensing Agency shall provide further training to the extent feasible to any vendor who contacts the State Licensing Agency with an individual problem concerning the operation of his or her vending facility.

011.03. Additional Education and Training: The State Licensing Agency shall provide such additional education or training which the State Licensing Agency staff is able to provide or to provide the opportunity to the vendor to seek the desired education or training from other sources.

011.04. Right to Appeal: Any vendor shall have the right to appeal a decision by the State Licensing Agency, as provided in 012, regarding the vendor's need of additional education or training.

012. Evidentiary Hearings And Arbitration Of Vendor Complaints

012.01. Authorization for a Full Evidentiary Hearing: Any blind vendor who feels aggrieved by an action of the State Licensing Agency directly affecting him or her may file a grievance in writing with the Executive Director of the State Licensing Agency for a full evidentiary hearing before an individual or panel comprised of one designee of the SLA Executive Director, one designee of the grievant and one neutral party, agreed upon by both.

012.01A. Such a hearing shall include representation by counsel for the vendor at the vendor's expense, if desired; an opportunity for witnesses to testify; cross-examination of witnesses; and a written or recorded decision explaining why the grievance was either denied or granted; and shall conform to the requirements of Nebraska's Administrative Procedures Act, Nebraska Revised Statutes Section 84-901 et. seq.

012.01B. The State Licensing Agency shall hold the hearing at a reasonable time, not to exceed 30 days following the filing of the grievance by the vendor. The SLA shall give reasonable notice to the vendor of the time and place of the hearing.

012.01C. Should the aggrieved blind vendor so desire, she or he may first submit the grievance to the Committee of Blind Vendors requesting the Committee to act as his or her advocate in the matter. The aggrieved blind vendor may appear in person before the Committee, meeting specifically to hear the grievance, or may submit the grievance to the Committee in writing or in some recorded form (including braille or digital format).

012.01C1. The grievant may call upon others to testify in his or her behalf to the extent that the Committee deems it necessary to establish the facts of the situation.

012.01C2. The Committee shall review the written statement, if any, from the Nebraska Commission for the Blind and Visually

Impaired announcing the action to the vendor who is appealing.

012.01C3. After reviewing all relevant facts, the Committee shall forward the grievance to the Executive Director of the Commission for the Blind and Visually Impaired together with its recommendation as to disposition. The Committee may recommend anything from outright rejection of the grievance to acceptance of said grievance and reversal of the original action.

012.01C4. The Committee may seek to negotiate a reconciliation between the parties or it may act as advocate for the vendor.

012.01C5. On receipt of a grievance from the Committee, the State Licensing Agency shall respond in a reasonable time, not to exceed five working days, to the recommendation by either reaffirming, reversing or modifying its original action.

012.01C6. The Committee may meet in closed session only in accordance with Nebraska Revised Statutes 84-1410.

012.02. Appeal to the Secretary: If the aggrieved blind vendor is dissatisfied with the outcome of this hearing, he or she may file a complaint with the Secretary of Education. The complaint shall include all available supporting documents including the decision rendered at the hearing and the reasons in support thereof. The appeal shall be conducted in accordance with the federal rules of 34 CFR 395 (as amended 1987).

012.03. Judicial Review: If the aggrieved party is not satisfied with the final administrative decision, as defined in 002.05, recourse may be had as provided in either the Nebraska Administrative Procedures Act, Nebraska Revised Statutes Sections 84-917 to 84-919, (Reissue 1976) or the Federal Administrative Procedures Act, 5 U.S.C. Section 701 et. seq.

012.04. Consent for Release of Information: The filing of a complaint under this rule with either the State Licensing Agency or the Secretary shall indicate consent by the blind vendor for the release of such information as is necessary for the conduct of a full evidentiary hearing or the hearing of an ad hoc arbitration panel.

013. Access To Program And Financial Information

013.01. SLA Allows Vendors Access to Financial Data: The State Licensing Agency shall provide each blind vendor access to all financial data of the State Licensing Agency relevant to the operation of the state vending facility program. Such data shall include quarterly and annual financial reports, but shall not include individual vendors financial transactions or income.

013.02. Available in Braille or Recorded Tape: Insofar as practicable, the State Licensing Agency shall make such data available in digital format, Braille, or recorded tape as requested.

013.03. SLA Assists Vendors in Interpretation: At the request of a blind vendor, the State Licensing Agency staff shall arrange a time convenient to both parties to assist the blind vendor in the interpretation of such financial data.

014. Notification To Vendors Of Their Rights And Responsibilities

014.01. Duty of State Licensing Agency: The State Licensing Agency shall furnish to each blind vendor a copy of these rules and regulations and any amendments thereto, a written description of the arrangements for providing services and the agreement and permit covering the operation of the vending facility.

014.02. SLA Assists Vendor in Interpretation: At the request of a blind vendor, the State Licensing Agency staff shall arrange a time convenient to both parties to assist the blind vendor in the interpretation of the regulations, agreements or permits.

APPENDIX A

AGREEMENT FOR OPERATION
OF A VENDING FACILITY
UNDER RANDOLPH-SHEPPARD ACT
BETWEEN

THE Nebraska Commission for the Blind and Visually Impaired

STATE LICENSING

AGENCY AND

, A LICENSED BLIND VENDOR

THIS AGREEMENT entered into this _____ day of
, 20__ , by and between the Nebraska Commission for the Blind
and Visually Impaired State Licensing Agency (hereinafter, SLA),
and _____, licensed as a blind vendor under the
Randolph-Sheppard program (hereinafter, vendor) by the SLA,

WITNESSETH:

WHEREAS: the SLA has been granted a permit by
, for the operation of a vending facility by a licensed blind
vendor under the Randolph-Sheppard program (hereinafter, permit)
on the (Federal property) (non-Federal property) located at
, a copy of which permit is attached hereto and made a part
hereof; and,

WHEREAS: the SLA has offered the vendor the opportunity to
operate the vending facility under the terms and conditions
hereinafter set forth; and

WHEREAS: the vendor has agreed to undertake the operation
of the vending facility under the terms and conditions
hereinafter set forth; and

WHEREAS: the parties do not intend to derogate in any way from responsibilities and rights imposed and granted by applicable Federal, State, or local laws or regulations by this agreement;

By and between _____, for the SLA

And _____, licensed vendor.

NOW, THEREFORE, in consideration of the premises, it is mutually agreed as follows:

A. THE SLA:

1. The SLA will equip the vending facility for carrying out the business authorized by the permit.
2. The SLA will furnish initial stocks of merchandise sufficient to enable the vendor to commence operating the business authorized by the permit. The SLA will also furnish the vendor with a complete inventory of all equipment and initial stocks.
3. The SLA will maintain the equipment at the vending facility in good repair, and will replace obsolete and worn out equipment as necessary.
4. The vendor assumes all responsibility of providing substitute help as may be necessitated by the vendor's absence because of illness, vacation, or otherwise. All substitute help shall be approved by the SLA. The salary of the person who substitutes for the vendor, or that of other emergency help, shall be charged to the vending facility where the service is performed, unless other provisions providing for vacation or sick leave are made available by the SLA.
5. The SLA will provide, or will provide for, supervisory and management services necessary for the efficient operation of the vending facility.

B. THE VENDOR:

1. The vendor will be responsible for having the vending facility open for business on the days and during the hours specified in the permit.
2. The vendor will operate the vending facility business on a cash basis except for such credit accounts as may be established or authorized by the SLA.
3. The vendor will be accountable to the SLA for the proceeds of the business of the vending facility, and will handle the proceeds, including payments to suppliers and deposits of funds, in accordance with instructions from the SLA.
4. The vendor will carry on the business of the vending facility in compliance with applicable health laws and regulations.
5. The vendor will maintain a neat business-like appearance while working at the vending facility, and will conduct the facility in an orderly, business-like manner.
6. The vendor will take proper care of the equipment of the vending facility, and will make alterations or changes therein only with the written approval of the SLA.
7. The vendor will notify the SLA a reasonable time in advance of taking any voluntary leave from the vending facility, and as soon as possible with respect to any involuntary leave.
8. The vendor will keep such records and make such reports as the SLA shall require.

C. GENERAL:

1. The business to be carried on at the vending facility will be limited to that specified and authorized in the permit.
2. The right, title, and interest in and to the equipment of the vending facility and the stock in trade, are vested in the SLA, and will be left at the vending facility or turned over to the SLA on the termination of this agreement for any reason by either of the parties. In such an event the fair market value of the vendor's interest will be determined by the SLA and paid to the vendor or to the vendor's heirs or

assignees.

3. The monthly income of the vendor shall be the net profits of the business of the vending facility for the period in question, less the funds which must be set aside, as established in writing by the SLA pursuant to 34 CFR 395.9 (as amended 1987).
4. Rebates, commissions, or bonuses received by the vendor from suppliers are, and must be accounted for as, income of the vending facility. Under no circumstances are such funds to be treated as the separate, personal funds of the vendor.
5. Merchandise taken from the stock in trade of the vending facility by the vendor for their own use shall be accounted for by the vendor and paid for at costs prices.