

CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 31, 1996.

Blake Imel,

*Acting Director.*

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## DEPARTMENT OF EDUCATION

### National Assessment Governing Board; Notice of Closed Meeting

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming closed meeting of the Nominations Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

**DATES:** February 19, 1996.

**TIME:** 9 a.m. to 4:30 p.m.

**LOCATION:** Ritz-Carlton Hotel, St. Louis Missouri.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, DC, 20002-4233; Telephone: (202) 357-6938.

**SUPPLEMENTARY INFORMATION:** The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103-382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

The Nominations Committee of the National Assessment Governing Board

will meet in closed session on February 19, 1996, from 9 a.m. to 4:30 p.m., to review the resumes of nominees to fill upcoming Board membership vacancies in the following categories: Chief State School Officer, Twelfth Grade Classroom Teacher, Test and Measurement Expert, Local School Superintendent, and General Public.

The review and subsequent discussion of this information will touch upon matters that relate solely to the internal rules and practices of an agency and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of section 552(b) of title 5 U.S.C.

A summary of the activities of the meeting and related matters, which are informative to the public, consistent with policy of 5 U.S.C. 552b, will be available to the public within fourteen days after the meeting.

Due to the government furlough, adjustments were made in the schedule established for the review of nominee applications. Meeting dates were changed to accommodate the process and the availability of committee members. Therefore, the public is given less than fifteen days notice of this meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, DC, from 8:30 a.m. until 5 p.m.

Dated: February 1, 1996.

Roy Truby,

*Executive Director, National Assessment Governing Board.*

[FR Doc. 96-2585 Filed 2-2-96; 8:45 am]

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### Arbitration Panel Decision Under the Randolph-Sheppard Act

**AGENCY:** Department of Education.

**ACTION:** Notice of Arbitration Panel decision under the Randolph-Sheppard Act.

**SUMMARY:** Notice is hereby given that on November 11, 1994, an arbitration panel rendered a decision in the matter of *Washington State Department of Services for the Blind v. United States Department of Interior, Bureau of Reclamation* (Docket No. R-S/91-7). This panel was convened by the Secretary of the U.S. Department of Education pursuant to 20 U.S.C. 107d-

1(b). The Randolph-Sheppard Act (the Act) provides a priority for blind individuals to operate vending facilities on Federal property. Under this section of the Act, the State licensing agency (SLA) may file a complaint with the Secretary if the SLA determines that an agency managing or controlling Federal property fails to comply with the Act or regulations implementing the Act. The Secretary then is required to convene an arbitration panel to resolve the dispute.

**FOR FURTHER INFORMATION CONTACT:** A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue, SW., Room 3230, Mary E. Switzer Building, Washington, DC 20202-2738. Telephone: (202) 205-9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-8298.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d-2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal and other property.

#### Background

In 1982, the Department of Interior through its Bureau of Reclamation (DOI) entered into an agreement with the Washington State Department of Services for the Blind, the SLA. This agreement provided for the operation by the SLA of a souvenir stand inside the visitors' arrival center at the Grand Coulee Dam in the State of Washington. In addition to the facility inside the visitors' arrival center, the agreement allowed the SLA to designate a blind vendor to operate several vending machines near the entrance to the Dam's powerhouse and to sell food and drink at a site in the visitors' parking lot.

In 1991 the DOI informed the SLA that it would retake possession of the space occupied by the blind vendor inside the visitors' arrival center. The SLA protested. However, DOI proceeded with the cancellation of the permit that authorized the operation of the vending facility. The cancellation of the permit was effective on May 9, 1991. DOI then assumed possession of the space at the visitors' arrival center where the blind vendor had previously sold souvenirs and informational publications. DOI's stated reason for cancellation of the permit was that it had entered into an agreement in April 1990 with the National Park Service and the Colville and Spokane Indian tribes to conduct interpretive programs at that site.

Subsequently, in an effort to keep the blind vendor in business at the Grand Coulee Dam, the SLA relocated the vendor to a trailer in the visitors' parking lot. The SLA rented and then later purchased a trailer to carry out the activities of the vendor formerly housed at the visitors' arrival center. The results were less than satisfactory from the perspective of the vendor and the SLA. However, DOI further required that, at the end of each tourist season, the SLA remove from the Dam site the vendor's trailer and inventory.

This requirement posed a considerable expense to the SLA. Consequently, the SLA attempted to renegotiate its permit with DOI, requesting reinstatement of its right to operate the facility in its former space at the visitors' arrival center. Alternatively, the SLA requested that DOI pay for the costs of the lease termination and the cost of relocating the vending facility. These expenses included the trailer rental, purchase of a trailer, and related expenses arising from the removal and storage of the trailer during the off season when the visitors' facilities were closed (Labor Day to the following Memorial Day).

Negotiations did not produce a resolution of the dispute, and on April 12, 1991 the Attorney General for the State of Washington on behalf of the SLA requested the Secretary of the U.S. Department of Education to convene an arbitration panel to hear this complaint. The panel was convened on March 16, 1994.

#### Arbitration Panel Decision

The arbitration panel at the outset of the hearing heard DOI motions challenging the authority of the arbitration panel to hear this dispute, to consider the assessment of monetary damages, or otherwise to carry out the congressional mandate under the Act and its implementing regulations, contending that DOI regulations in 43 CFR Part 13 were controlling.

The panel denied DOI's motions concerning the arbitration panel's jurisdiction to hear the complaint and assess damages on the grounds that the 1974 Randolph-Sheppard Act, as amended by Congress, specifically delegated to the Secretary of the U.S. Department of Education the exclusive authority to establish uniform rules and regulations to implement the Act. The panel further ruled that this mandate renders the regulations of any other Department or Federal instrumentality that are in conflict or at odds with those of the Department of Education invalid and unenforceable.

During the arbitration hearing, DOI also advanced the argument that the Act does not apply to this dispute because the visitors' arrival center is less than 15,000 square feet and has fewer than 100 Federal employees working in the building. However, the panel ruled that it is clear from the 1974 amendments to the Act that Congress expanded the definition of areas to which the Act applied to all Federal facilities. The square footage and number of Federal employees referred to in the regulations are relevant only if, unlike this case, the parties failed to agree on the feasibility of operating a blind vendor's facility on the property.

While it is true that the visitors' arrival center is less than 8000 square feet and has fewer than 20 Federal employees who work in the center, what makes this vending operation a success is the more than 1,500,000 visitors a year who come to the Grand Coulee recreational area. Moreover, the panel reasoned that the events surrounding the establishment of this vending facility made it very clear that all parties understood that this vending location was a Randolph-Sheppard facility and that, when DOI negotiated the permit, it did not raise objections to the SLA that the visitors' arrival center at the Grand Coulee Dam was not an appropriate location because it lacked the 15,000 square feet or employed fewer than 100 Federal employees. DOI waived its right to object under the terms of the regulations when it agreed with the SLA to establish the vending location pursuant to 34 CFR 395.31 (d) and (e).

The panel further ruled that the 1982 Memorandum of Agreement signed by DOI and the SLA in its introductory paragraph clearly recognizes that the Grand Coulee Dam location is a Randolph-Sheppard facility and, therefore, is governed by the Act and its implementing regulations. However, contrary to DOI's claim, the hearing records indicate that DOI has refused to grant the SLA a permit with an indefinite time period pursuant to the Act (20 U.S.C. 107(b)) and the regulations (34 CFR 395.7(b)), notwithstanding the fact that the SLA has repeatedly requested a permit to be signed in accordance with the Act and the regulations.

Consequently, the panel ruled that to uphold the terms of the 1982 Memorandum of Agreement regarding its duration and the right of DOI to unilaterally terminate the blind vendor's operation at the visitors' arrival center and impose upon the SLA the costs and losses of relocation would be in direct violation of the congressional mandate, the Randolph-Sheppard Act, and the

implementing regulations. The fact that DOI signed an agreement with the National Park Service and the Colville and Spokane Indian tribes in 1990 to provide information about the area and the culture does not supplant its obligations to the SLA and the blind vendor under the Act.

The panel award directed DOI to enter into a permit agreement with the SLA in accordance with the Act and the regulations and to reinstate the blind vendor in the space formerly occupied or negotiate an alternative comparable space at the visitors' arrival center. DOI was ordered to pay all costs and expenses incurred by the SLA as the result of the vendor's removal from the visitors' arrival center. These expenses included, but were not limited to, the costs of the trailer rental, the storage and movement of the trailer and inventory, and any other expenses incurred as the result of the removal of the blind vendor. The panel decision stated that, in the event the SLA agrees to an alternative location for the vendor, the location shall in all particulars be equal in opportunities and amenities to the visitors' arrival center and shall be provided entirely at the expense of DOI unless otherwise agreed upon by the SLA. Further, the panel decision directed the DOI to require that the National Park Service and the Colville and Spokane Indian tribes cease and desist selling any goods in competition with the blind vendor, after consultation with the SLA.

One panel member dissented.

The panel retained jurisdiction over this award with respect to the remedial portions.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: February 1, 1996.

Judith E. Heumann,

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 96-2534 Filed 2-6-96; 8:45 am]

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## DEPARTMENT OF ENERGY

### Office of Energy Research

#### Energy Research Financial Assistance Program Notice 96-08: Human Genome Program; Technological Advances

**AGENCY:** U.S. Department of Energy (DOE).

**ACTION:** Notice inviting grant applications.

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