

Information Technology Access and Telecommunications Access and the Disability and Business Technical Assistance Centers; and

- Collaborate with relevant Federal agencies responsible for the administration of public laws that address access to and usability of electronic and information technology for individuals with disabilities including, but not limited to, the General Services Administration, the Access Board, the Federal Communications Commission, the Rehabilitation Services Administration, and other relevant Federal agencies identified by NIDRR.

Proposed Additional Selection Criterion

The Assistant Secretary will use the selection criteria in 34 CFR 350.54 to evaluate applications under this program. The maximum score for all the criteria is 100 points; however, the Assistant Secretary also proposes to use the following criterion so that up to an additional ten points may be earned by an applicant for a total possible score of 110 points:

Within this absolute priority, we will give the following competitive preference to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the extent to which an application includes effective strategies for employing and advancing in employment qualified individuals with disabilities in projects awarded under this absolute priority. In determining the effectiveness of those strategies, we will consider the applicant's success, as described in the application, in employing and advancing in employment qualified individuals with disabilities in the project.

For purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Applicable Program Regulations: 34 CFR Parts 350 and 353.

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Program Authority: 29 U.S.C. 761a(g) and 762.

(Catalog of Federal Domestic Assistance Number 84.133A, Disability and Rehabilitation Research Projects)

Dated: May 3, 2000.

Judith E. Heumann,
Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00-11529 Filed 5-5-00; 8:45 am]

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DEPARTMENT OF EDUCATION

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 16, 1998, an arbitration panel rendered a decision in the matter of *Alabama Department of Rehabilitation Services v. U.S. Department of Defense, Department of the Air Force (Docket No. R-S/97-4)*. This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(b) upon receipt of a complaint filed by petitioner, the Alabama Department of Rehabilitation Services.

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, 400 Maryland Avenue, SW., room 3230, Mary E. Switzer Building, Washington DC 20202-2738. Telephone: (202) 205-9317. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205-8298.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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

Background

This dispute concerns the alleged violation by the U.S. Department of Defense, Department of the Air Force (Air Force), of the priority provisions of the Act by the exclusion of the proposal submitted by the Alabama Department of Rehabilitation Services, the State licensing agency (SLA), from the competitive range for a full food service contract at Maxwell Air Force Base, Gunter Annex, Alabama. A summary of the facts is as follows: On July 2, 1996, the Air Force issued a request for proposal (RFP) for full food service at Maxwell Air Force Base, Gunter Annex, Alabama. The SLA responded to the RFP as the State licensing agency authorized to administer the Act in Alabama. In the SLA's proposal, a blind person was designated as the State's licensee, and Food Service, Inc. was identified as a subcontractor to the SLA.

The RFP specified that the technical criteria of management, production, quality control and safety would be used to evaluate the proposal. Following the technical evaluation of the proposal by the Air Force, the SLA was informed that its proposal was determined to be unacceptable under the management criteria. In excluding the SLA, the Air Force determined that the SLA's proposal had three primary deficiencies: (1) It failed to provide evidence of the

contractor's full understanding of the requirement for maintaining the SIMS computer system for the food service operation, in particular with regard to the contractor's role in providing contractor personnel identifications and passwords. (2) The proposed SIMS Administrator did not have the level of experience required by the solicitation. (3) The alternate SIMS Administrators did not have the experience required by the solicitation.

In October 1996, the Air Force issued four clarification/deficiency letters to the SLA requesting that the SLA respond to its concerns. In a letter dated November 20, 1996, the Air Force advised the SLA of its exclusion from the competitive range of the RFP. The letter referred to the three previously stated reasons as the basis for the Air Force's decision.

The SLA received the November 20th letter from the Air Force on November 22 and on November 27 filed a protest against the Air Force with the U.S. General Accounting Office (GAO). The SLA then learned that the Air Force had awarded a contract to a private concessionaire on November 22, 1996. On November 29, the SLA filed a supplemental protest with GAO alleging that the Air Force had violated the Federal Acquisition Regulation, which requires contracting officers to notify in writing an unsuccessful offeror at the earliest practicable time that its proposal is no longer in the competitive range.

On December 2, 1996, the Air Force filed a request for summary dismissal of the SLA's protest with GAO. On December 12, the SLA received notification that its protest had been dismissed. The SLA filed a request for arbitration with the Secretary of Education concerning this dispute. A Federal arbitration hearing on this matter was held on June 16, 1998.

Arbitration Panel Decision

The central issues before the arbitration panel were: (1) Did the Air Force reasonably and properly evaluate the proposal submitted by the SLA? (2) Did the Air Force comply with the legal requirements to conduct meaningful discussions with the SLA pursuant to the Act and implementing regulations? (3) Did the Air Force comply with the legal requirement to treat all offerors equally?

The majority of the panel ruled that the record demonstrated that the Air Force technical evaluation team evaluated the SLA's proposal reasonably and in accordance with the terms of the solicitation. The solicitation required that the proposed SIMS Administrator

have 3 years experience performing complete system back-ups including daily back-ups, as well as 3 years experience in trouble-shooting the system. The offeror was required to provide resumes and other evidence that substantiated that its proposed SIMS Administrator satisfied this requirement. The record reflects that the SLA failed to do so.

The panel further found that, in order to show that it was improperly excluded from the competitive range, the burden of proof was on the SLA to show that the determinations concerning the unacceptability of its proposal were unreasonable. The majority of the panel concluded that the evidence failed to meet this burden. Further, the record showed that the Air Force evaluators reasonably reached each determination concerning the technical unacceptability of the SLA's proposal and the Air Force Contracting Officer reasonably excluded the SLA's proposal from the final competitive range. Accordingly, the panel found that the Air Force's evaluation of the SLA's proposal and decision to eliminate the SLA from the competitive range were reasonable, rational, proper, and in accordance with the requirements of the solicitation.

Concerning the second issue, regarding the alleged failure of the Air Force to conduct meaningful discussions with the SLA, the majority of the panel stated that, when conducting meaningful discussions, an agency merely must direct or lead offerors into areas of their proposals needing amplification. An agency is not obligated to give offerors all-encompassing negotiations, nor is the agency required to rewrite an offeror's proposal. The panel found that, in this procurement, the Air Force on several occasions informed the SLA representatives of the Air Force's concerns with regard to the SLA's SIMS experience and its role in maintaining the system.

Regarding the third issue, concerning the alleged failure of the Air Force to treat all offerors fairly, the majority of the panel found that the record fully supported the reasonableness of the Air Force's evaluation of the SLA's proposal. The panel further ruled that there was no evidence of unequal or unfair treatment. After fully considering the record, the majority of the panel ruled that the Air Force acted reasonably, properly, and in accordance with the solicitation in evaluating and excluding the proposal submitted by the SLA. Therefore, the complaint was denied.

One panel member dissented.

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

Dated: May 1, 2000.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00-11345 Filed 5-5-00; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-221-002]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2000.

Take notice that on April 27, 2000, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1A, Substitute Second Revised Sheet No. 14 with an effective date of April 1, 2000.

CNG states that the purpose of the filing is to comply with the Commission's April 18, 2000 letter order in this proceeding correcting the classification of Line H-156 to transmission as required by the Commission's order issued in Docket No. CP97-549-000.

CNG states that copies of this letter of transmittal and enclosures are being served upon parties listed on the official service list.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 00-11359 Filed 5-5-00; 8:45 am]

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