

100 Federal employees during normal working hours.

On March 6, 1996, the SLA filed a request with the Secretary of Education to convene an arbitration panel pursuant to the Act and regulations.

On January 23 and 24, 1996, an arbitration hearing was held concerning the SLA's charges of alleged violations of the Act and regulations by Reclamation. The issues heard by the panel were—(1) Whether Reclamation was responsible for certain relocation costs of two vending facilities at the Hoover Dam; (2) whether Reclamation was required to provide a suitable site to blind vendors in the newly constructed parking garage or Visitors Center at the Hoover Dam and to pay for relocation costs, architectural fees, and other associated costs; (3) whether Reclamation is required to comply with the vending machine income-sharing provisions of the Act and implementing regulations; and (4) whether the SLA lost its right to claim income from vending machines based upon waiver, estoppel, or laches?

Arbitration Panel Decision

The majority of the Arbitration Panel found that, while Reclamation was not responsible for relocation costs, it was nevertheless responsible for providing suitable sites to the blind licensees operating the Hoover Dam Store and the Hoover Dam Snacketeria in the newly constructed facility under the existing indefinite permits, without additional payments of rent and commissions on sales to Reclamation. The panel stated that Reclamation may not require, as a condition of continuing or establishing a vending facility in the parking ramp or at the Arizona Lookout, the payment of commissions on sales, rent, or other charges not included in the indefinite permit, nor can Reclamation require the SLA or the vendors to sign any time-limited contract, special use agreement, or other document of this kind.

The panel concluded that to require the SLA to pay rent and commissions on sales would be a violation of 34 CFR 395.31(d) and would be inconsistent with the ruling in *State of Minnesota, Department of Jobs and Training v. Riley*, 18 Fd.3rd 606 (8th Cir. 1994).

The panel further found that Reclamation will move, at its expense, the stock and equipment owned by the blind licensees operating the Hoover Dam Snacketeria and the Hoover Dam Store from the temporary facilities to the new location in the parking ramp and provide space consistent with discussions held with the SLA. The SLA will bear the responsibility of the cost to complete the internal space.

In addition, the panel ruled that pursuant to 34 CFR 395.32 (a) and (d) Reclamation is liable to the SLA for 30 percent of all vending machine income derived since January 2, 1975, from the machines located inside the Hoover Dam. Therefore, Reclamation will identify and account for the revenues earned since that date that are owed.

One panel member dissented from the majority opinion.

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

Dated: April 4, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97-9182 Filed 4-9-97; 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 20, 1996, an arbitration panel rendered a decision in the matter of *Valerie Hazimeh v. Massachusetts Commission for the Blind (Docket No. R-S/96-1)*. This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(a), upon receipt of a complaint filed by petitioner, Valerie Hazimeh.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arnsow, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Mary E. Switzer Building, Washington D.C. 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 in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

Ms. Valerie Hazimeh, complainant, operated a concession/vending facility at the Chelsea Soldier's Home in Massachusetts in the Spring of 1995.

The operation of this facility included the selling of lottery tickets.

In May 1995, the Massachusetts Commission for the Blind, the State licensing agency (SLA), advertised an opening of a vending location at the Department of Veterans Affairs (DVA) Medical Center, 7th floor, 251 Causeway Street, Boston, Massachusetts. The advertisement of this location indicated that a lottery license would be required for the sale of lottery tickets.

Subsequently, on June 15, 1995, the SLA awarded the DVA Medical Center vending facility to the complainant. Ms. Hazimeh signed an operator's agreement for this location with the understanding that the sale of lottery tickets was allowed, as she already was a licensed dealer of lottery tickets and had made lottery sales at her former vending facility location.

On June 26, 1995, DVA informed the SLA that it would no longer allow lottery sales at the Medical Center vending facility due to the fact that the Center treated persons with addictive disorders, including gambling.

Following DVA's denial of the lottery sales at the Medical Center, the SLA attempted to persuade the DVA to reverse its decision. However, DVA maintained its June 26, 1995, position suspending lottery sales.

The complainant alleged that the number of persons affected by a gambling addiction was small and that the permit agreement between DVA and the SLA specifically allowed for the sale of Massachusetts lottery tickets. The complainant requested that the SLA file for an arbitration against DVA, alleging failure of DVA to comply with the permit under the provisions of the Randolph-Sheppard Act (the Act), 20 U.S.C. 107 *et seq.* The SLA decided not to file for arbitration against DVA. However, the SLA offered Ms. Hazimeh an opportunity to return to her former vending location, where lottery sales were permitted, and to bid on the next available location that would allow lottery sales.

The complainant rejected the SLA's offer and filed a request for a fair hearing, which was conducted on November 20, 1995, before an impartial hearing officer. The hearing officer's ruling affirmed the SLA's decision not to file for arbitration against DVA. The hearing officer ruled that the complainant failed to sustain the burden of proof that the SLA was obligated to file for an arbitration against DVA on her behalf. Further, the hearing officer ruled that the SLA's decision not to file for arbitration against DVA was within its discretion pursuant to 34 CFR 395.37(a).

On January 17, 1996, the complainant filed a request for Federal arbitration with the Secretary of Education concerning this grievance. An arbitration hearing on this matter was held on September 10, 1996.

Arbitration Panel Decision

The issues before the arbitration panel were—(1) whether the complainant, Valerie Hazimeh, in accordance with the permit between the SLA and DVA, should be permitted to sell lottery tickets at the DVA Medical Center; and (2) whether the SLA should be required to file a complaint with the Secretary of Education against DVA with respect to the restriction on the sale of lottery tickets at the DVA Medical Center.

Regarding the first issue concerning the permit between the SLA and DVA which allowed lottery sales, the arbitration panel stated that the permit for the Medical Center operation, initially signed in 1990, was still valid and had not been modified prior to complainant's filing for grievance. The panel ruled that the existing permit binds the parties to the original agreement. Consequently, when Ms. Hazimeh signed the operator's agreement on June 15, 1995, her contract rights as a third party beneficiary were fixed pursuant to the existing permit. Therefore, by prohibiting the sale of Massachusetts lottery tickets at the Medical Center, DVA violated its contract with the SLA.

The second issue concerned whether the SLA should be required to file a complaint with the Secretary of Education against DVA on behalf of complainant. The panel ruled that 34 CFR 395.37 provides that whenever any State licensing agency determines that any department is failing to comply with the provisions of the Act (here, the terms and conditions of the permit), and all informal attempts to resolve the issues have been unsuccessful, that licensing agency may file a complaint with the Secretary. The arbitration panel concluded that the operative term was the word "may," and, therefore, the SLA had no obligation to file a complaint.

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

Dated: April 4, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97-9183 Filed 4-9-97; 8:45 am]

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DEPARTMENT OF ENERGY

Notice of Competitive Financial Assistance for the Office of Industrial Technologies

AGENCY: U.S. Department of Energy.

ACTION: Notice of Competitive Financial Assistance Solicitation.

SUMMARY: The Department of Energy announces that competitive applications will be solicited for regional field management of the Industrial Assessment Center (IAC) program, formerly the Energy Analysis and Diagnostic Center program. The IAC program provides practical training in industrial energy and waste management generating improvements while giving engineering students and young professionals practical experience in the application of these techniques. Estimated total funding in the amount of \$33,000,000 will be provided over a five year period of performance.

ADDRESSES: Solicitation number DE-PS01-97EE41240 will be available through the Department of Energy's "Current Business Opportunities at Headquarters Procurement Operations" Homepage located at www.pr.doe.gov/solicit.html. Interested applicants that do not have internet access may request a copy of the solicitation by sending a request with a virus-free diskette and diskette mailer to U.S. Department of Energy, Office of Placement and Administration, Attn: Document Control Specialist, HR-562, 1000 Independence Ave., SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ms. Jackie Kniskern, HR-561.21, Office of Placement and Administration, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585, telephone number (202) 426-0049, e-mail at jacqueline.kniskern@hq.doe.gov.

SUPPLEMENTARY INFORMATION: The IAC program, in operation for twenty years, has been guided by field management working under policy guidelines established by the Department of Energy (DOE). The program has expanded to provide in-depth, on-site energy, waste management and productivity assessments for small- and medium-size manufacturers, followed by recommendations for specific dollar savings. These assessments, conducted by faculty and students of IAC schools, are designed to identify energy, waste, and productivity improvements as assessment recommendations (ARs) throughout the plant, e.g., production-related services, HVAC, and housekeeping. During the 6 to 9 month

period following audit report submission to the client plant, the IAC conducts a survey of the client to determine which ARs have been implemented. This provides a reasonably accurate and on-going measure of the effectiveness of the program.

The Industrial Assessment Center program provides practical training in industrial energy and waste management generating improvements for increased productivity while giving young engineering professionals practical experience in the application of these techniques, in a working manufacturing environment. These young professionals assist senior faculty and professionals in the collection and evaluation of energy, waste and productivity data for client firms. Students with this background are better equipped, upon graduation, to perform energy and waste management responsibilities in the industrial sector. Their employment potential is enhanced because of the practical work experience they have acquired.

Each IAC Region is administered by a Regional Field Manager. IAC field management conducts performance reviews and evaluations and prepares analytical and statistical summaries of all regional data. Schools report assessment data on line to the IAC data base. The directors of all IACs meet annually to review program progress and to exchange information with each other. The field manager should be prepared to provide creative leadership in the area of industrial energy, waste, and productivity management, database management, data aggregation and analysis, and the preparation of information and reports for use in developing training aids and technical assistance documents.

This assistance action provides funding for the ultimate operation of schools participating in the IAC Program. The field management responsibility will be awarded for an eastern field management region and a western field management region of the United States as divided by the Mississippi River. Competitors may receive awards in either field management territory. The purpose of the awards is to provide coordination and management of the schools participating in the IAC Program. In addition, the management of the national database of the audit and assessment data from the IAC program will be awarded.

Pursuant to 10 CFR 600.9, a solicitation, which will include the project objectives, application instructions, evaluation criteria, and a