recommendations within two years of the date of the final report.

—The Marine Corps will support its fair share of the 51 management and research projects developed by the Sonoran Pronghorn Recovery Team to promote recovery of the subspecies. These projects may be conducted in coordination with other agencies. Projects will be implemented beginning in fiscal years 2002 and 2003 to the extent that funding is available.

—The Marine Corps will provide the USFWS Phoenix Ecological Services Office and the Cabeza Prieta National Wildlife Refuge with an annual monitoring report that provides information on the prior year's implementation progress for the mitigation measures described above as well as any terms and conditions or reasonable and prudent alternatives listed in the Biological Opinion. The report will also include the date and location of any Sonoran pronghorn observed by Marine Corps personnel, including observations of injured or dead Sonoran pronghorn. Reports that may be produced in association with implementation of the mitigation measures or the Biological Opinion will be appended to the annual monitoring report. The first annual report will be submitted by 1 March 2002.

—The Marine Corps will support closure of the Mohawk Valley area of BMGR—West to public use from 15 March to 15 July beginning in 2002 to reduce the potential for human disturbance of Sonoran pronghorn during the period that is critical to early fawn survival. The Marine Corps will also support the permanent closure of roads within this area that are not needed for administrative agency use. The roads selected for closures will be identified by 1 October 2002 through consultation with the USFWS and other agency partners participating in the ongoing development of the Barry M. Goldwater Range Integrated Natural Resources Management Plan. By 15 March 2003, routes will be signed, and permanently closed routes will be blocked with physical barriers. The Marine Corps will construct an interpretive kiosk at the entrance to Barry M. Goldwater Range on the road from Tacna. Text for the kiosk will be prepared in coordination with USFWS and will describe regulations for public use of the range.

Biological Opinion

As noted earlier, USFWS issued a new Biological Opinion addressing the YTRC upgrades. USFWS determined the action will not jeopardize the existence of the Sonoran pronghorn. USFWS believes low-level helicopter use should avoid areas of significant pronghorn use to minimize adverse effects from helicopters on the pronghorn and its habitat, particularly areas important for fawns and their mothers. Accordingly, USFWS issued two terms and conditions regarding low-level helicopter use: one low-level route utilized by helicopters over the Cabeza Prieta National Wildlife Refuge should be modified in order to further reduce impacts on the Sonoran pronghorn, all helicopters between March 15 and July 15 of year year, except those participating in the Weapons Tactics Instructors course, should remain west of the current range of the Sonoran pronghorn, or on designated transit routes, or above 1,000 feet above ground level. These terms and conditions will be implemented. USFWS anticipates that no more than 6 Sonoran pronghorns could be taken as an incidental result of the proposed action. The incidental take is expected to be in the form of harassment. This incidental take provision will be reviewed concurrent with subsequent reviews of the Barry M. Goldwater Range Integrated Natural Resources Management Plan. Said reviews are required every five years.

Conclusion

All practicable means to avoid or minimize environmental harm from implementing the upgrades to the YTRC have been considered. After considering the requirements of the Marine Corps, the potential environmental impacts of this action, social and economic concerns, and all comments received during the EIS process, I have determined that the decisions made pursuant to the 1997 YTRC FEIS shall proceed as discussed in the SEIS, and that Marine Corps actions to manage the western portion of the Barry M. Goldwater Range for military aviation activities, when added to other past, present, and reasonably foreseeable future actions, will not have cumulative significant impacts on the Sonoran pronghorn.

Dated: November 16, 2001.

Duncan Holaday,

Deputy Assistant Secretary of the Navy, (Installations and Facilities).

[FR Doc. 01–29276 Filed 11–21–01; 8:45 am]

BILLING CODE 3810–FF–P

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 May 19, 2001, an arbitration panel rendered a decision in the matter of *Donna Evans, et al* v. *Maryland Division of Rehabilitation Services (Docket No. R–S/99–5).* 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, Donna Evans, et al.

FOR FURTHER INFORMATION: A copy of the full text of the arbitration panel decision may be obtained from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 3232, Mary E. Switzer Building, Washington, DC 20202–2738. Telephone: (202) 205–8536. 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 alternative 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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You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

SUPPLEMENTARY INFORMATION: Pursuant to section 6(c) of the Randolph-Sheppard Act (the 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

This dispute concerns the alleged failure by the Maryland Division of Rehabilitation Services, the State licensing agency (SLA), to properly administer the Randolph-Sheppard Vending Facility Program by prohibiting the State Committee of Blind Vendors (Committee), who are the complainants in this case, from using allocated funds to pay legal expenses. As a result, the Committee maintained that it had been restricted in participating in the administration of the SLA's Randolph-Sheppard Vending Facility Program pursuant to the provisions of the Act (20 U.S.C. 107 *et seq.*) and the implementing regulations in 34 CFR part 395.

A summary of the facts is as follows: In August 1997 the Committee voted to ask for an increase in its budget, which included funds for legal counsel. In a letter dated September 18, 1997, to the Committee, the SLA denied the increase stating three reasons, which were—(1) no significant revenue enhancements had been demonstrated for the FY 1998 and FY 1999 budget year; (2) many of the major budget items were driven by the settlement agreements; and (3) the SLA's Randolph-Sheppard Vending Facility Program had significantly reduced program costs by eliminating two positions. The SLA further stated that, based on a review of the Randolph-Sheppard Vending Facility Program, the SLA would initiate a modest increase in the Committee's budget that was previously approved for FY 1998 and FY 1999.

The issue of the use of funds for legal expenses budgeted for the Committee was addressed in a letter dated October 1, 1997, from the Chairman of the Committee to the SLA. The Chairman indicated that it was the Committee's understanding that both parties had a consensus concerning the use of funds for legal counsel. The Committee alleged that the SLA never submitted to the Committee in writing any formal objection to the use of the Committee's funds for legal fees. The Committee also alleged that there is no prohibition in the Act and implementing regulations concerning the use of legal counsel by the Committee; therefore, the Committee was entitled to use its funds for legal representation.

The Committee further alleged that a request for a full evidentiary hearing on their complaint concerning the SLA's refusal of payment of legal fees was filed on July 12, 1998, with the SLA. On August 3, 1998, the SLA informed the Committee through the Office of Administrative Hearings that a pre-hearing conference date had been set for October 1, 1998. However, the Committee maintained that the delay in providing a full evidentiary hearing violated the Act, implementing regulations, Maryland State regulations, and the Committee's due process rights to a speedy resolution of its complaint.

The Committee also challenged the selection of the individual to chair the administrative review conference required by State regulations with respect to vendor complaints and challenged the attendance at those informal conferences of the SLA's attorney.

Arbitration Panel Decision

A majority of the arbitration panel concluded that, while the Committee had raised a number of interesting policy issues in support of their claims, there was no requirement in the Act or the implementing Federal or State regulations to fund the activities of the Committee, to grant the Committee plenary control over the expenditures of any monies budgeted to it by the SLA, or to require that the SLA pay for the attorney fees of the Committee, even if those fees were incurred in furtherance of Committee activities mandated by the Act.

The panel further found that the 1974 Amendments to the Act imposed certain responsibilities upon the Committee and increased the participation of licensed blind vendors in the conduct of the Randolph-Sheppard Vending Facility Program. However, the panel ruled that the Act did not grant the Committee any control over the expenditure of program funds (including those program funds that have their source in vendor activities or activities engaged in for the benefit of vendors) and thus did not mandate that the SLA fund any Committee activities in particular.

Concerning the dissatisfaction of the Committee regarding the Administrative Review Conference, the majority of the panel concluded that the selection of the chair and the manner in which the conference was held was consistent with the applicable State regulations.

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: November 16, 2001.

Robert H. Pasternack,

Assistant Secretary, Office Special of Education and Rehabilitative Services.

[FR Doc. 01–29200 Filed 11–21–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory (NETL), Morgantown, Department of Energy (DOE).

ACTION: Notice of availability of a Financial Assistance Solicitation.

SUMMARY: NETL announces that, pursuant to 10 CFR 600.8(a)(2), and in support of advanced coal research to U.S. colleges and universities, it intends to conduct a competitive Program Solicitation No. DE–PS26–02NT41369 and award financial assistance grants to qualified recipients. Applications will be subjected to a comparative merit review by a technical panel of DOE subject-matter experts and external peer reviewers. Awards will be made to a limited number of proposers based on: The scientific merit of the proposals, application of relevant program policy factors, and the availability of funds.

Once released, the solicitation will be available for downloading from the IIPS Internet page. At this internet site you will be able to register with IIPS, enabling you to download the solicitation and to submit a proposal. If you need technical assistance in registering or for any other IIPS function call the IIPS Help Desk at (800) 683–0751 or email the Help Desk personnel at *IIPS__HelpDesk@e-center.doe.gov.* Questions relating to the solicitation content must be submitted electronically to the Contract Specialist via email. All responses to questions will be released on the IIPS home page as will all amendments. The solicitation will only be available in IIPS.

DATES: The solicitation will be available for downloading on the DOE/NETL's Homepage at *http://www.netl.doe.gov/business* and the IIPS ''Industry Interactive Procurement System'' Internet page located at *http://e-center.doe.gov* on or about December 3, 2001. Applications must be prepared and submitted in accordance with the instructions in the Program Solicitation and must be received at NETL by January 16, 2002. Prior to submitting your application to the solicitation, periodically check the NETL Website for any amendments.

FOR FURTHER SOLICITATION INFORMATION CONTACT: Michael P. Nolan, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 880 (MS I07), Morgantown, WV 26507–0880; Telephone: 304/285–4149; Facsimile: 304/285–4683; E-mail: *mnolan@netl.doe.gov.*