

the difference between the percentage of AI/AN students in grades three through eight at or above the proficient level in reading and mathematics on State assessments and the percentage of all students scoring at those levels; (5) the percentage of AI/AN students who graduate from high school as measured by the four-year adjusted cohort graduation rate; and (6) the percentage of funds used by grantees prior to award close-out.

5. **Integrity and Performance System:** If you receive an award under this grant program that over the course of the project period may exceed the simplified acquisition threshold (currently \$150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

## VI. Agency Contacts

**FOR FURTHER INFORMATION CONTACT:** For questions about the Formula Grants program, contact Bernard Garcia, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202–6335. Telephone: (202) 260–1454 or by email: [Bernard.Garcia@ed.gov](mailto:Bernard.Garcia@ed.gov). For questions about the EASIE application and uploading documentation, contact the EDFacts PSC, telephone: 877–457–3336 (877–HLP–EDEN) or by email at: [eden\\_OIE@ed.gov](mailto:eden_OIE@ed.gov).

If you use a telecommunications device for the deaf or a text telephone, call the EDFacts PSC, toll free, at 1–888–403–3336 (888–403–EDEN).

## VII. Other Information

**Accessible Format:** Individuals with disabilities can obtain this document

and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the EDFacts PSC listed under *Agency Contacts* in section VI of this notice.

**Electronic Access to This Document:** 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 via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as other documents of this Department published in the **Federal Register** in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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Dated: April 12, 2017.

**Monique M. Chism,**

*Acting Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 2017–07732 Filed 4–14–17; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

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

**AGENCY:** Department of Education.

**ACTION:** Notice of arbitration decision.

**SUMMARY:** The Department of Education (Department) gives notice that, on June 11, 2015, an arbitration panel (the Panel) rendered a decision in the matter of *Maryland Department of Education v. General Services Administration* (Case no. R–S/13–06).

**FOR FURTHER INFORMATION CONTACT:** You may obtain a copy of the full text of the Panel decision from Donald Brinson, U.S. Department of Education, 400 Maryland Avenue SW., Room 5045, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7310. If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll-free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** The Panel was convened by the Department under the Randolph-Sheppard Act (Act), 20 U.S.C. 107d–1(b), after receiving a complaint from the Maryland State Department of Education (MSDE), the State Licensing Agency (SLA) designated to administer the Randolph-Sheppard program in Maryland. Under 20 U.S.C. 107d–2(c) of the Act, the Secretary publishes in the **Federal Register** a synopsis of each Panel decision affecting the administration of vending facilities on Federal and other property.

### Background

The complainant, MSDE, filed a grievance against the respondent, the General Services Administration (GSA), challenging the award of a contract for cafeteria service. The Panel decided the case on motions for summary judgment. The chair and one member sustained the grievance, and one member dissented.

The issue before the Panel was whether GSA violated the Act when it awarded the contract for operation of cafeteria services to a bidder other than the SLA and, if so, what was the appropriate remedy.

MSDE argued that GSA violated the Act by awarding a contract for cafeteria service at the Social Security Administration's cafeteria in Baltimore, Maryland, to a private entity without establishing a competitive range to carry out the Act's requirement that priority be given to blind vendors. The SLA had submitted a proposal in partnership with a blind vendor.

GSA took the position that it was not required to establish a competitive range and that the SLA had confused the requirements of the solicitation, the Federal Acquisition Regulations (FAR), and the Act. Specifically, GSA argued that, while the FAR requires a competitive range only if discussions are held, the solicitation provided that GSA could make an award without discussion. GSA further argued that when there is a single offer that clearly exceeds all others and merits direct award, it can make an award to that offeror without creating a competitive range.

### Synopsis of the Panel Decision

At the MSDE's request, the Panel was convened on June 11, 2015. The Panel concluded that GSA violated the Act by failing to establish a competitive range. The Panel recognized that Congress established the Act's priority requirement to enhance economic opportunity for the blind. When a Federal agency solicits services, it is

required to invite the SLA to bid on the contract. If the SLA's proposal falls within the competitive range and has been ranked among those with a reasonable chance of being selected, a Federal agency must give priority to the SLA's proposal.

GSA acknowledged that a competitive range was not established and that it awarded the contract based on its determination that the private company's proposal merited a direct award, but the failure to create a competitive range constituted a violation of the Act. (*Southfork Sys. v. United States*, 141 F. 3d 1124 (Fed. Cir. 1998); *Kentucky v. United States*, 2014 WL 7375566 (W.D. Ky. Dec.29, 2014).

Having found that GSA violated the Act, the Panel next considered the issue of remedy. The Panel recognized that, while it had no authority to impose a specific remedy, the Act requires the head of the agency, subject to appeal, to take such action as may be necessary to carry out the Panel's decision.

The Panel recommended that GSA give (1) notice of the Panel's decision to the current contractor and (2) notice that the contract would terminate within a specified period. The Panel also recommended that GSA enter into direct negotiations with the SLA. If the GSA declined to enter into such negotiations, the Panel recommended that GSA issue a new solicitation, with a competitive range.

The views and opinions expressed by the Panel do not necessarily represent the views and opinions of the Department.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 11, 2017.

**Ruth E. Ryder,**

*Deputy Director, Office of Special Education Programs, delegated the duties of the Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2017-07731 Filed 4-14-17; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

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

**AGENCY:** Department of Education.

**ACTION:** Notice of arbitration decision.

**SUMMARY:** The Department of Education (Department) gives notice that, on March 17, 2011, an arbitration panel (the Panel) rendered a decision in *Bernard Werwie, Jr. v. Pennsylvania Office of Vocational Rehabilitation* (Case no. R-S/07-16).

**FOR FURTHER INFORMATION CONTACT:** You may obtain a copy of the full text of the Panel decision from Donald Brinson, U.S. Department of Education, 400 Maryland Avenue SW., Room 5045, Potomac Center Plaza, Washington, DC 20202-2800. Telephone: (202) 245-7310. If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll-free, at 1-800-877-8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** The Panel was convened by the Department under the Randolph-Sheppard Act (Act), 20 U.S.C. 107d-1(a), after receiving a complaint from the complainant, Bernard Werwie, Jr., a licensed blind operator of a vending facility in Luzerne County, Pennsylvania. Under section 107d-2(c) of the Act, the Secretary publishes in the **Federal Register** a synopsis of each Panel decision affecting the administration of vending facilities on Federal and other property.

### Background

The complainant, Bernard Werwie, Jr., was a licensed blind operator of a vending facility in Luzerne County, Pennsylvania. His dispute with the respondent, the Commonwealth of Pennsylvania's Office of Vocational Rehabilitation (PA OVR), arose out of the termination of his participation in the Business Enterprises Program by the PA OVR effective December 31, 2006.

Pursuant to the Act, Mr. Werwie sought a hearing of his claims against

the PA OVR. On July 7, 2008, a hearing officer dismissed his appeal and denied his request for damages and attorney's fees. The PA OVR adopted the hearing officer's decision as its final agency action.

Mr. Werwie then requested the convening of the Panel. The Panel chair moved to schedule a hearing for that summer. There were no acceptable hearing dates available in the summer, so the Panel chair circulated a list of proposed dates in late 2009.

The hearing was not held in 2009 because, in July, Mr. Werwie discharged the attorneys he had engaged to handle the case. The Panel granted him until January 2010 to find new counsel.

Despite being granted an extension to name a new representative by January of 2010, Mr. Werwie did not respond until February 25. In his response, he indicated that he was still looking for new counsel and asked that the case be held in abeyance until September 2010 or until further notice. The PA OVR objected to this request for delay, and, on March 29, 2010, the Panel gave Mr. Werwie until May 3, 2010, to find new counsel.

Mr. Werwie never responded with the name of a new representative as requested by that deadline. Accordingly, the Panel chair informed him that, if he intended to proceed with his case against the PA OVR, he had to respond by June 10, 2010.

On July 1, 2010, the PA OVR filed a motion to dismiss Mr. Werwie's claims for failure to prosecute. Counsel for the PA OVR served Mr. Werwie a copy of this motion and supporting brief by sending them by First Class Mail to his Fredericksburg, Virginia, address.

On July 18, 2010, the RSA informed the Panel chair of an email received from Mr. Werwie asking about the status of his case. In it, he alleged that he had heard nothing about the case since early March. This message was from email and postal mail addresses different from those he had used in his prior correspondence. The New Cumberland, Pennsylvania, address that he listed in his July 18 communication was identified as his father's address.

The Panel responded to Mr. Werwie on August 9, 2010. It asked him for confirmation that he was ready to proceed with the case and instructed him to inform it of the name and contact information of his new counsel on or before August 29, 2010. The Panel indicated that, if it could not schedule a hearing, it would then proceed with the PA OVR's motion to dismiss the complaint.

On August 18, Mr. Werwie notified the Panel that his representatives were