

perspectives on Military Operations Other Than War. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matter to be discussed is so inextricably intertwined so as to preclude opening any portions of these meetings. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695-0781.

Sally A. Warner,

*Administrative Officer, Army Science Board.*

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## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services

#### Office of Administrative Law Judges; Intent to Compromise a Claim, Resource, Inc.

**AGENCY:** Department of Education.

**ACTION:** Notice of intent to compromise a claim.

**SUMMARY:** The Department intends to compromise a claim against Resource, Inc. now pending before the Office of Administrative Law Judges (OALJ), Docket No. 94-103-R (20 U.S.C. 1234a(j)).

**DATES:** Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before May 30, 1995.

**ADDRESSES:** All comments concerning this notice should be addressed to Jeffrey B. Rosen, Office of the General Counsel, U.S. Department of Education, 600 Independence Avenue SW., Room 5411, FB-10B, Washington, D.C. 20202-2242.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey B. Rosen. Telephone: (202) 401-6009. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** In September 1991 the Rehabilitation Services Administration (RSA), U.S. Department of Education (ED), conducted a compliance review of the grantee, Resource, Inc., in accordance with the Rehabilitation Act of 1973, as amended (the Act), and "RSA Procedures for the Recovery of Disallowed Costs Identified Through Program Monitoring Activities" (Information Memorandum RSA-IM-92-04). The review covered the

grantee's performance during fiscal year 1991 under a Projects With Industry (PWI) program grant authorized under Title VI of the Act, 29 U.S.C. 795g. RSA issued a Final Monitoring Report on March 24, 1992.

Based upon this monitoring report, the Regional Commissioner, Region V, RSA, and the Director, Grants Division, Grants and Contracts Service, issued a Notice of Disallowance Decision (NDD) on May 31, 1994, in which Resource, Inc. was requested to repay \$218,517 of funds misspent under Title VI of the Act. A total of \$204,416 was disallowed because the grantee did not meet the requisite cost sharing or matching requirement under the PWI program. In addition, ED disallowed \$115,585 for the failure of the grantee to keep time distribution records for its employees who worked on the PWI program. However, because \$101,484 of these funds were included in the prior disallowance, the total cost disallowance (\$218,517) was less than the total of the costs disallowed for each of the two findings. On June 30, 1994 Resource, Inc. filed an appeal of the NDD with the OALJ.

On November 17, 1994 ED filed a Notice of Reduction of Claim notifying the OALJ that, based upon new information submitted by the grantee, the first issue concerning the matching requirement was resolved. Thus, the total amount outstanding in the appeal was reduced to \$115,585, which is covered by the Settlement Agreement.

Under the terms of the proposed agreement, Resource, Inc. owes ED a total of \$31,682. The grantee has agreed to make payment in 2 installments over a 1-year period, the first payment to be made within 30 days of execution of the agreement by ED. Resource, Inc. would be assessed interest at a rate of three percent per year if both installment payments are not made in a timely fashion. Failure to make timely payments within 40 days of the due dates would result in a late payment fee of 10 percent of the principal. Finally, under the agreement, the parties would jointly move for dismissal of the appeal. For the following reasons, ED recommends approval of the proposed Settlement Agreement.

There is clearly a litigation risk in attempting to uphold the original finding. The evidence presented by Resource, Inc. demonstrates that the employees in question worked a substantial portion of the time on the PWI grant. While Resource, Inc. clearly had an obligation to keep time distribution records, its evidence, which often was less reliable and circumstantial, could persuade an

administrative law judge or a Federal court to rule in substantial part or in full for its position.

Resource, Inc. has agreed to repay \$31,682. Based upon the foregoing, ED believes that it is prudent to accept the settlement offer, which represents a recovery of over 27 percent of the original costs disallowed in the PDD for this finding. If this issue is not settled, ED will incur further litigation costs, and there will be some litigation risk during the administrative process. Moreover, Resource, Inc. also would have the right to appeal any decision to the U.S. Court of Appeals. See 20 U.S.C. 1234g. In addition, the grantee has certified in the Settlement Agreement that it is presently in compliance with the time distribution requirements that gave rise to the disallowance at issue in this agreement.

After weighing the risks in litigating the issue that is the subject of the settlement, it is ED's assessment that the proposed Settlement Agreement is the most advantageous resolution.

The public is invited to comment on the ED's intent to compromise this claim. Additional information may be obtained by writing to Jeffrey B. Rosen at the address given at the beginning of this notice.

Program Authority: 20 U.S.C. 1234a(j) (1990).

Dated: April 7, 1995.

Donald R. Wurtz,

*Chief Financial Officer.*

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## DEPARTMENT OF ENERGY

### Notice of Floodplain Involvement For Operable Unit 2 Removal Action No. 30 At the Fernald Environmental Management Project

**AGENCY:** U.S. Department of Energy (DOE), Fernald Area Office.

**ACTION:** Notice of floodplain involvement.

**SUMMARY:** This is to give notice of DOE's actions planned for the Fernald Environmental Management Project (FEMP), located approximately 18 miles (29 kilometers) northwest of downtown Cincinnati, Ohio. The subject of this Notice of Involvement is Operable Unit 2 which is defined by five subunits or areas: the Solid Waste Landfill, Lime Sludge Ponds, Inactive Flyash Pile, South Field, and Active Flyash Pile. The proposed Removal Action No. 30 for Operable Unit 2 involves excavation and construction activities that could