Secretary, notifies the appropriate fishery management council (Council) whenever it determines that overfishing is occurring, a stock is in an overfished condition or a stock is approaching an overfished condition.

FOR FURTHER INFORMATION CONTACT: Regina Spallone, (301) 427–8568.

SUPPLEMENTARY INFORMATION: Pursuant to section 304(e)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1854(e)(2), and implementing regulations at 50 CFR 600.310(e)(2) and (j)(1), NMFS, on behalf of the Secretary, must notify Councils, and publish in the **Federal Register**, whenever it determines that a stock or stock complex is subject to overfishing, overfished, or approaching an overfished condition.

NMFS has determined that South Atlantic golden tilefish is subject to overfishing. This determination is based on the most recent stock assessment (SEDAR 25 Update), finalized in 2016, which supports a finding of subject to overfishing because estimates of fishing mortality (F) are above the maximum fishing mortality threshold, or MFMT. The South Atlantic Fishery Management Council has been informed that they must take action to end overfishing immediately on this stock.

NMFS has determined that the Western and Central Pacific (WCP) stock of Pacific bigeye tuna is subject to overfishing. This determination is based on a 2014 stock assessment update conducted by the Secretariat of the Pacific Community, and accepted by the Western and Central Pacific Fisheries Commission. NMFS has determined that section 304(i) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) applies because (1) the overfishing of the WCP stock of Pacific bigeye tuna is due largely to excessive international fishing pressure, and (2) the applicable regional fishery management organizations have inadequate measures in place to correct the problem. NMFS has informed the Western Pacific Fishery Management Council and the Pacific Fishery Management Council of their obligations for international and domestic management under Magnuson-Stevens Act sections 304(i) and 304(i)(2) to address international and domestic impacts, respectively. The Councils must develop recommendations for domestic regulations to address the relative impact of the domestic fishing fleet on the stock, and develop recommendations to the Secretary of State and Congress for international actions to end overfishing on the WCP stock of bigeye tuna.

NMFS has determined that South Atlantic blueline tilefish is still subject to overfishing. A 2014 stock assessment determined that the stock was subject to overfishing (79 FR 28686, May 19, 2014). This stock was not assessed in 2016, so landings were compared to the overfishing level (OFL). Final landings in 2015 exceeded the OFL for this stock, which supports a determination of subject to overfishing. NMFS continues to work with the South Atlantic Fishery Management Council to end overfishing.

In addition, NMFS has determined that South Atlantic red snapper continues to be subject to overfishing and is in an overfished condition. A 2010 assessment determined that this stock was subject to overfishing and in an overfished condition. That assessment found that estimates of F were above the MFMT and the stock size was less than the minimum stock size threshold, or MSST. This latest determination is based on the most recent stock assessment (SEDAR 41), finalized in 2016, which provides no basis to change the determination that the stock is subject to overfishing and is overfished. NMFS continues to work with the South Atlantic Fishery Management Council to end overfishing and rebuild this stock.

Finally, NMFS has determined that Pacific bluefin tuna in the North Pacific Ocean continues to be subject to overfishing and is in an overfished condition. A 2014 assessment determined that this stock was subject to overfishing and in an overfished condition (80 FR 12621, March 10, 2015). This latest determination is based on a 2016 assessment conducted by the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean, in conjunction with NOAA scientists.

NMFS has determined that section 304(i) of the Magnuson-Stevens Act applies because (1) the overfishing and overfished condition of Pacific bluefin tuna in the North Pacific Ocean is due largely to excessive international fishing pressure, and (2) there are no management measures (or efficiency measures) to end overfishing under an international agreement to which the United States is a party. NMFS has informed the Western Pacific Fishery Management Council and the Pacific Fishery Management Council of their obligations for international and domestic management under Magnuson-Stevens Act sections 304(i) and 304(i)(2) to address international and domestic impacts, respectively. The Councils must develop recommendations for domestic regulations to address the relative impact of the domestic fishing fleet on the stock, and develop recommendations to the Secretary of State and Congress for international actions to end overfishing and rebuild the Pacific bluefin tuna in the North Pacific Ocean.

Dated: April 14, 2017.

Karen H. Abrams,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–07923 Filed 4–18–17; 8:45 am]

BILLING CODE 3510–22–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 February 14, 2014, an arbitration panel (Panel) rendered a decision in the matter of *Kentucky Office of the Blind vs. Department of the Army, Fort Campbell* (Case no. R–S/11–06).

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 Department convened the Panel under the Randolph-Sheppard Act (Act), 20 U.S.C. 107d–1(b), after receiving a complaint from the Kentucky Office of the Blind, the State licensing agency (SLA) designated to administer the Randolph-Sheppard program in Kentucky. 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 Department of the Army, Fort Campbell (Army) used contractors through the SLA for several years because most of the Army's cooks

located at the base were deployed. Thus, the Army had to contract for cooks to provide food service to those located on the base. As the number of troops deployed decreased, the cooks from Fort Campbell returned to the base. Military personnel began to perform multiple tasks, including selecting the menus, preparing and cooking the food, ordering supplies, maintaining quality control of all food prepared and served, maintaining equipment, conducting headcount of soldiers served, and noting accountability of cash received. While these duties had been performed by the SLA, due to these changes, the Army no longer needed to have a contractor provide these services. However, the Army still had a need for a contractor to perform certain services because soldiers are precluded by Army Regulation 30–22 from performing dining facility attendant duties in a garrison environment.

The Performance Work Statement outlined the duties the contractor would now be required to perform. According to the Panel's decision:

> [T]he contractor is to ''hire and staff of qualified personnel . . . provide an on-site contract manager and with full authority to obligate the company and be responsible for overall performance . . . provide all employees with uniforms . . . establish and maintain a comprehensive quality control plan . . . train employees . . . maintain certificates and records . . . operate, and clean after each use, mechanical vegetable peeling machine . . . requisition, wash, peel and cut potatoes and fruit.''

The Army Contracting Officer concluded that the required services did not fall within the scope of the Act.

Because of the Army Contracting Officer's decision, the SLA filed a request for arbitration with the Department contending the Army violated the Act and its applicable regulations, in 34 CFR part 395, when it issued this solicitation without applying the provisions of the Act to the Army's source selection process. The matter was then submitted to the Panel.

Synopsis of the Panel Decision

A similar issue had arisen at Fort Campbell in the late 1990s. In 2002, an arbitration panel concluded that the services described in that Performance Work Statement fell within the terms of the Act. The Panel was asked whether the 2002 decision was binding through the principle of res judicata, given the similarity of issues and parties. The Panel concluded unanimously that the 2002 decision was not binding on the Panel because there had been several judicial rulings and pronouncements by Congress since the earlier case was decided. The Panel decided, however, to give that case ''respectful consideration.''

The Army argued that the Panel should give great deference to the decision of the Contracting Officer. The Panel majority disagreed with that argument. While there was no disagreement that the Army had full authority to have its own cooks handle food preparation and manage the dining facility, the issue was whether the Army's conclusion that the remaining work was not covered by the Act was correct. The Panel determined that resolution of the issues in this case involved statutory interpretation, and, because the Department is charged with interpreting the Act, by extension, so is the Panel.

The remaining question then was whether the Act was intended to apply to the discrete dining facility attendant services that were to be provided at the dining halls at Fort Campbell. The Panel majority noted that because interpretations had changed over the years, to understand what the Act, as it stands today, was intended to cover, it had to explore this history. As a result, the Panel reviewed and discussed the 1974 Amendments, various pronouncements from the Department and the Comptroller General's various court decisions, the relationship between the Act and the Javits-Wagner-O'Day Act (JWOD), and the passage of the National Defense Authorization Act of 2007 (NDAA).

The majority ultimately concluded the Act applies to this solicitation at Fort Campbell. In reaching that conclusion, the Panel rejected the Army's assertion that *Washington State Department of Services for the Blind* v. *United States,* 58 Fed. Cl. 781 (2003), was binding on the Panel. The Panel determined that the *Washington* case was limited to just ''busboy'' services, whereas the Fort Campbell solicitation also involved food handling. The Panel also discussed the impact of the NDAA and the interplay between the services covered by the Act and JWOD. In determining that the NDAA defined food services to include mess attendant services, the Panel concluded that this ''impliedly indicated those services are covered by the [Act].''

Finally, in rejecting the argument that the NDAA did not apply because the contract in effect at Fort Campbell was not awarded under the Act, the Panel concluded that the NDAA was still a ''pronouncement by Congress as to the coverage of the [NDAA] and is, therefore, a significant factor here.'' The Panel then concluded that had the Army complied with the earlier arbitration panel ruling in 2002, ''the contract for [mess attendant] services in 2006 would have been issued under the [Act].''

For the reasons stated in the decision, the Panel found that the Army violated the Act when it issued the solicitation for Dining Facility Attendant Services at Fort Campbell without applying the provisions of the Act to the Army's source selection process. In terms of a remedy, the Panel recognized that the Act requires that, when a violation has been found, the Federal agency must ''cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.'' The Panel directed the Army to notify the current contractor that its contract would not be renewed at expiration and to begin negotiations with the SLA for services to commence upon the expiration of the current contract.

One panel member concurred in part and dissented in part.

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Dated: April 13, 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. 2017–07858 Filed 4–18–17; 8:45 am]

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DEPARTMENT OF EDUCATION

List of Correspondence From July 1, 2015, Through September 30, 2015, and October 1, 2015, Through December 31, 2015

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.