

application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement

You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

- You do not have access to the internet; or
 - You do not have the capacity to upload large documents to the *Grants.gov* system;
- and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or email a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. Address and mail your statement to: Mr. Eric Schulz, U.S. Department of Education, Room 3E-210, 400 Maryland Avenue SW., Washington, DC 20202.

Or email your statement to: *REAP@ed.gov*.

Your paper application must be submitted in accordance with the mail or hand-delivery instructions described in this notice.

b. Submission of Paper Applications by Mail:

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.358A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202-4260.

You must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

- (1) A private metered postmark.
- (2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. Submission of Paper Applications by Hand Delivery:

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.358A), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202-4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

- (1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

- (2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245-6288.

IV. Accessibility 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) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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

Program Authority: Sections 5211-12 of the ESEA, as amended by the ESSA.

Dated: April 12, 2017.

Monique M. Chism,

Acting Assistant Secretary for Elementary and Secondary Education.

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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 January 11, 2012, an arbitration panel (the Panel) rendered a decision in *Illinois Department of Human Services, Division of Rehabilitative Services v. U.S. Department of Transportation, Federal Aviation Administration* (Case no. R-S/10-02).

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 Illinois Department

of Human Services, Division of Rehabilitative Services. Under section 107d–2(c) of the Act, 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

The complainant, the Illinois Department of Human Services (IL DHS) Division of Rehabilitative Services, alleged that the respondent, the Federal Aviation Administration (FAA), violated the Act when it rescinded a permit authorizing the Business Enterprise Program for the Blind (BEPB) to operate vending machines at the FAA facility in Elgin, Illinois. The BEPB is responsible for administering the Act in the State.

Specifically, on January 4, 2006, the FAA negotiated and signed a permit authorizing BEPB to operate vending machines at the Elgin facility. Both parties agreed the facility was a satisfactory site for a vending facility under applicable regulations. On July 31, 2006, BEPB wrote the FAA asking when vending services would be implemented. On December 20, 2006, the FAA responded that there had been a change in the requirements for service and that it had awarded a contract to another vendor.

Communication between BEPB and the FAA ceased from December 20, 2006, until September 2, 2008, when the BEPB program administrator, Raven Pulliam, wrote to Lois Flick at the FAA concerning the permit and requesting a date for installation of vending equipment. Hearing nothing, Pulliam wrote to the administrator of the FAA's regional office on September 21, 2010. On October 27, 2010, a representative from the regional office responded that the FAA was going to terminate the permit, specifying that the FAA's requirements for food service had changed. On November 18, 2010, the IL DHS filed a complaint and a request for a Federal arbitration with the Secretary of Education.

IL DHS alleged that the FAA unlawfully: (1) Voided and withdrew an irrevocable agreement; (2) identified the Elgin facility as a "satisfactory site" for a vending facility but did not offer priority to blind vendors to operate such services; and (3) continued to violate the permit by refusing to allow a blind vendor to operate at the Elgin facility since January 2006.

IL DHS requested that the Panel grant the following relief: (1) 50 percent of all income from vending machines currently in operation at the Elgin

facility; and (2) prejudgment interest and interest from the date of award until paid.

The FAA raised the affirmative defense that the Act was not applicable because the Elgin facility did not meet the minimum requirements of a "satisfactory site." The FAA also argued that: (1) The operation of a blind vending facility would adversely affect the interests of the United States; (2) the permit was not an agreement or a contract but an authorization of the provision of vending services that could be terminated with 30-days' notice; and (3) BEPB did not raise issues or contest the termination when it was notified of the FAA's intention to contract for services in December 2006 (the laches defense).

In response, IL DHS stated that BEPB entered into a contractual agreement with the FAA, which could not be unilaterally revoked. It also argued there was no Secretarial determination that the placement or operation of the vending facility under the permit would be adverse to the interest of the United States and that, by signing the permit, both parties agreed that the Elgin facility met the minimum criteria identified as a "satisfactory site" for a vending facility. IL DHS contended that the laches defense is not applicable and that the applicable State statute of limitations for bringing a contract action is 10 years.

The FAA claimed the laches defense should still apply, stating that an opportunity to exercise one of the Act's exemptions would have been made possible if it had been aware of the BEPB's position earlier.

Synopsis of the Panel Decision

The Panel convened a status conference by telephone on November 11, 2011, and the chair issued a pretrial order requiring both parties to submit stipulated facts and exhibits by November 30, 2011. The Panel concluded that an evidentiary hearing would not be necessary. A hearing was held by telephone conference on January 11, 2012.

The Panel unanimously determined that, when the FAA and the BEPB came to a contractual agreement for the operation of vending machines at the Elgin facility, the FAA obligated itself under the Act. Furthermore, the Panel determined that the FAA forfeited any statutory exemptions given that its signature on the permit removed any claim of insufficient space, minimum level of vending machine income, or the configuration of the facility's space. Therefore, the Panel determined that the FAA was liable to the IL DHS.

Although the Panel determined that laches did not apply, it also found that the BEPB would be unjustly enriched were the Panel to award the BEPB damages for the 20-month gap in which it failed to contact the FAA. On this basis, the Panel awarded the BEPB a total of \$4,320.00 as the amount of the FAA's liability through March 2012. The computation was based upon a reasonable estimate of 50 percent of net income from vending machine operations, or \$80 per month, multiplied by 54 months. The Panel also determined that BEPB was not entitled to pre-judgment interest.

The Panel found that the permit should remain in place and stated that it hoped that the parties would negotiate, without any more delay, on establishing a vending facility on the Elgin facility. The Panel also retained jurisdiction in this matter to ensure that its decision would be adhered to.

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. 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.

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