

address information which surfaced during settlement negotiations, namely, whether USPS violated the Act, its regulations, and the vending permits by closing Break Room A and removing the vending machines for 34 days, and what compensatory damages, if any, are due the SLA.

Arbitration Panel Decision

After hearing testimony and reviewing all of the evidence, the panel majority ruled that: (1) USPS cafeterias are not exempt from the protections of the Act, including the vending machine income sharing provisions; (2) The vending machines operated in the cafeteria at the Chicago Processing and Distribution Center by a private vendor are in direct competition with the blind vendor and are subject to the 100 percent income sharing provisions under the Act; and (3) The no-commission contracts let by USPS for cafeteria vending machines at the Chicago Processing and Distribution Center under its break-even policy violated the purpose and terms of the Act and implementing regulations.

Thus, the panel majority ruled that USPS must compensate the SLA 100 percent of vending machine income for all of the vending machines located in the rotunda and in the cafeteria at the Chicago Processing and Distribution Center in accordance with the income sharing provisions of the Act and implementing regulations at 34 CFR 395.32 as of September 21, 2006.

The panel majority further ruled that the USPS must pay interest at the Federal interest rate and the method of calculating interest should begin only at the end of the month in which the income originally would have been earned by the blind vendor and continue forward from that time. Additionally, the panel majority determined there was no need to allow the SLA to amend its complaint because those issues had already been resolved.

One panel member dissented to a portion of the decision regarding the monetary remedy award. Specifically, it was this panel member's belief that within 30 days following the date of the arbitration panel's decision, USPS should compensate the SLA the amount of \$5,934.70 for income lost by the blind vendor from January 29 to March 3, 2007, resulting from violations of the Act. Also, this member believed that USPS should compensate the SLA the amount of \$318,600 for income lost by the SLA and blind vendor as a consequence of vending machines operated by a private vendor in direct competition with the blind vendor in violation of the income sharing

provisions of the Act and the relevant permits. Finally, this member believed that USPS should pay the SLA interest in the amount of \$17,556.83 calculated at 5 percent per annum, compounded.

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

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Dated: August 9, 2010.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

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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: The U.S. Department of Education (Department) gives notice that on April 27, 2009, an arbitration panel rendered a decision in the matter of *Jerry Manganello, et al. v. Pennsylvania Office of Vocational Rehabilitation, Case No. R-S/07-7*. This panel was convened by the Department under 20 U.S.C. 107d-1(a), after the Department received a complaint filed by the petitioner, *Jerry Manganello, et al.*

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 5022, Potomac Center Plaza, Washington, DC 20202-2800.

Telephone: (202) 245-7374. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free at 1-800-877-8339.

Individuals with disabilities may obtain this document in an accessible format (*e.g.*, Braille, large print, audiotope, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Under section 6(c) of the Randolph-Sheppard Act (the Act), 20 U.S.C. 107-2(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

Jerry Manganello, et al. (Complainants) alleged violations of the Act and its implementing regulations in 34 CFR part 395 by the Pennsylvania Office of Vocational Rehabilitation, the State licensing agency (SLA). Specifically, Complainants alleged that the SLA improperly administered the Randolph-Sheppard Vending Facility Program as provided by the Act, implementing regulations, and State rules and regulations by failing to comply with a unanimous vote of the Committee of Blind Vendors (CBV) concerning unassigned vending machine income and the payment of set-aside fees to the SLA.

The SLA, in the overall operation and administration of Pennsylvania's Randolph-Sheppard vending program, established several funds to receive monies from various sources. Fund 33 receives monies paid by blind vendors from the net profits of vending facilities and vending machine income on Federal property. Fund 650 receives monies from vending machines operated by blind vendors at interstate highway rest areas.

In 1998, the CBV by referendum agreed to use 85 percent of the funds in Fund 650 for medical benefits and to permit the SLA to use the balance for programmatic purposes. However, the CBV alleged that, in practice, the SLA used 15 percent of the funds in Fund 650 to support SLA program staff salaries.

Conversely, the SLA alleged that between 1998 and 2005, it asked the CBV to approve the use of part of the accrued balance in Fund 650 for programmatic purposes and that whenever the SLA's request was not approved, the money remained in Fund 650.

In 2005, because of increased health insurance premiums, CBV unanimously

passed three referenda. The first referendum requested that the SLA forego its 15 percent of the annual revenue that accrued in Fund 650. Instead, the SLA would apply 100 percent of the revenue to the vendors' health insurance plan. The second referendum requested that the SLA transfer the unused balance of its 15 percent in Fund 650 to the vendors' health insurance account. The third referendum requested that the SLA transfer \$650,000 from Fund 33 to the vendors' health insurance account so the money could be used to cover an impending shortage.

The Complainants alleged, however, that the SLA did not comply with the three referenda and actually transferred a substantial sum of the money to its own account to pay retroactive salaries of program staff.

A State fair hearing on this matter was held. On May 6, 2007, the hearing officer issued a decision affirming the CBV's complaint, finding that the SLA had violated CBV's right to actively participate in the SLA's administrative decision making concerning the collection and use of unassigned vending machine income and set-aside funds. The hearing officer ruled that (1) the SLA should return funds collected from the unassigned vending machine income used to pay for staff salaries, and (2) in all future major decisions, the SLA should allow active participation by the CBV.

Following the hearing officer's decision, the SLA filed a petition for review with the Commonwealth Court of Pennsylvania. On January 28, 2008, the court denied the SLA's appeal. The SLA then filed a motion for re-argument, which was denied by the court on March 14, 2008. Subsequently, the CBV requested review and enforcement by a Federal arbitration panel of the May 7, 2007, hearing officer's decision.

Arbitration Panel Decision

After a hearing at which all testimony was presented and following extensive negotiations, the panel majority and the parties were able to reach a settlement and entered into a Settlement Agreement. The panel ruled that the Settlement Agreement would become the panel's final Decision and Award. Additionally, the parties have agreed that the terms of the Settlement Agreement should not be revealed or disclosed.

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

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Dated: August 9, 2010.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

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DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Technology and Media Services for Individuals With Disabilities—Video Description Research and Development Center; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2011

Catalog of Federal Domestic Assistance (CFDA) Number: 84.327J.

DATES: *Applications Available:* August 12, 2010.

Deadline for Transmittal of Applications: October 12, 2010.

Deadline for Intergovernmental Review: December 10, 2010.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of the Technology and Media Services for Individuals with Disabilities program are to: (1) Improve results for children with disabilities by promoting the development, demonstration, and use of technology; (2) support educational media services activities designed to be of educational value in the classroom setting to children with disabilities, and (3) provide support for captioning and video description of educational materials that are appropriate for use in the classroom setting. In the context of this notice, educational materials for use in the classroom setting include television programs, videos, and other materials, including programs and materials associated with new and

emerging technologies, such as CDs, DVDs, and other forms of multimedia.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute or otherwise authorized in the statute (see sections 674(c) and 681(d) of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1474 and 1481(d)).

Absolute Priority: For FY 2011 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is: Technology and Media Services for Individuals with Disabilities—Video Description Research and Development Center.

Background

To ensure that children who are blind or visually impaired have access to all educational program content, the Office of Special Education Programs (OSEP) provides competitive grant funds to support the video description of educational television programs. (See <http://publiccdb.tadnet.org>. Use the keyword search function with the term "video description".)

However, teachers are increasingly using the Internet and other technological devices (e.g., cell phones, smart phones, digital video cameras) rather than television for instruction. Unfortunately, much of the educational program content provided via the Internet or through other technological devices is not accessible to children who are blind or visually impaired. While progress has been made in accessibility—through video description—for television programming that is appropriate for the classroom setting, there is currently no legal requirement or any OSEP-funded project for providing video description for educational program content delivered via the Internet (e.g., YouTube, YouTube EDU, Second Life, and virtual on-line courses) or through technological devices (e.g., smart phones, cell phones, and digital video cameras). The technology needed to provide description for educational program content delivered via the Internet or through other technological devices is either just beginning to emerge or yet to be developed.

It is essential to develop methods for providing video description that can be used in conjunction with the Internet and other technological devices in order to ensure that all students who are blind or visually impaired have access to educational program content delivered