provide funds to build and operate a new McDonald's facility within its jurisdiction. If timely notice were delivered in writing to DOD within 60 days after receipt by the SLA, a priority right to operate the McDonald's franchise would be given to the SLA and to a competent, qualified manager recommended by the SLA.

Further, NAVRESSO within 60 days must communicate to the SLAs involved in the dispute a plan for establishing the priority of blind vendors pursuant to the Act in the event that another McDonald's restaurant would be established within the jurisdiction of these SLAs. The parties also would draft procedures for communicating notice of intent to operate McDonald's restaurants within the jurisdiction and determine criteria for selecting competent blind managers.

Subsequently, concurrent court proceedings before the United States District Court for the District of Columbia regarding this dispute have been cancelled, and the case has been dismissed.

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

Dated: January 11, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–1578 Filed 1–20–95; 8:45 am]

BILLING CODE 4000–01–P

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision Under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on October 19, 1992, an arbitration panel rendered a decision in the matter of *Keith McMullin* v. *Department of Services for the Blind, State of Washington, (Docket No. R–S/91–8).* This panel was convened by the Secretary of the U. S. Department of Education pursuant to 20 U.S.C. 107d–1(a), upon receipt of a complaint filed by petitioner, Keith McMullin, on April 29, 1991. The Randolph-Sheppard Act provides a priority for blind individuals to operate vending facilities on Federal property. Under this section of the Randolph-Sheppard Act (the Act), a blind licensee dissatisfied with the State's operation or administration of the vending facility program authorized under the Act may request a full evidentiary fair hearing from the State licensing agency (SLA). If the licensee is dissatisfied with the State agency's decision, the licensee may complain to the Secretary, who then is required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U. S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Switzer Building, Washington, D.C. 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal property.

Background

The complainant, Keith McMullin, is a blind vendor licensed by the respondent, the Washington Department of Services for the Blind, pursuant to the Randolph-Sheppard Act, 20 U.S.C. 107 *et seq.* The Department is the SLA responsible for the operation of the State of Washington's vending facility program for blind individuals.

On November 13, 1964, the General Services Administration (GSA) issued a permit to the SLA to operate a vending facility at the Federal Office Building in Richland, Washington. The articles to be vended were— ''magazines, cigars, cigarettes and related tobacco items, coffee, candy, novelties, ice cream, cold beverages, greeting cards, cookies, etc.'' Mr. McMullin operated the vending facility from the time the building was opened. At that time, a fountain head and jet spray beverage equipment were installed for dispensing soft drinks and juices.

About 1965, a cafeteria operation was added to the Federal Office Building, and it was operated under contract between GSA and a private concessionaire. A dispute arose between Mr. McMullin and the operator of the cafeteria concerning the sale of certain items, including beverages.

On October 22, 1970, the Contracting Officer of the Operations Branch of the Buildings Management Division of GSA wrote a letter to the SLA to resolve the dispute. The letter stated in relevant part, ''The blindstand has exclusive right to sell carbonated drinks. . . and any other items prepackaged by the maker in individual servings. . . The blindstand is not authorized to sell coffee and other hot drinks, as these are to be sold by the cafeteria operator exclusively.'' The letter went on to state that the policy statement had been incorporated into the cafeteria operator's contract and had been discussed with the building manager in Richland and with the complainant at the vending facility. Further, GSA believed that, with the agreement of the SLA, the issuance of the letter would become a part of the operator's agreement under which Mr. McMullin's vending facility operated.

In the years that followed, the SLA treated the arrangement made by GSA as granting the vending facility, and therefore the licensed vendor, the exclusive right to sell carbonated beverages. However, on May 16, 1975, GSA informed the SLA that it did not believe the arrangement between them gave Mr. McMullin the exclusive right to sell consumable food products, such as soft drinks, ice cream, and yogurt. The complainant objected to what he believed to be a violation of his exclusive right, and the SLA supported his position. GSA did not pursue this action until March 14, 1979 when the Chief of Operations Branch of the Buildings Management Division of GSA wrote to the SLA stating, ''We do not object to the blind operator selling other drinks, but we do not agree that he has exclusive rights.''

In 1986 the private concessionaire operating the cafeteria ceased doing business, and the contract was assigned to the SLA. Operation of the cafeteria was awarded by contract to another blind vendor. The contract required the sale of soft drinks as part of the full-line cafeteria food service. However, in a letter dated November 8, 1988, the SLA contacted GSA regarding the operation of the cafeteria. The SLA stated that it did not request any change regarding the sale of carbonated beverages because Mr. McMullin had a permit giving him rights to sell those beverages. The cafeteria continued to operate without selling carbonated beverages until May 1989 when it again came to the attention of GSA personnel.

In a letter dated September 14, 1989, the Director of Real Property Management of GSA informed the Director of the SLA that a new permit application should be made for the operation of the vending facility because the current permit did not comply with regulations governing the operation of such a facility under the Randolph-Sheppard Act. In addition, GSA stated that provisions should be made for the sale of soft drinks by the cafeteria.

The SLA made application for new permits for the operation of the facility and the cafeteria. The application for

the cafeteria designated the facility as a snack bar, which could sell only one hot meal per day, so that it could be operated by a permit rather than a contract. On August 23, 1990, GSA issued new permits effective January 1, 1990. The permit for the snack bar, which was formerly the cafeteria, listed items to be sold as soft drinks, juice, coffee, and other beverages. Likewise, the permit for the vending facility operated by Mr. McMullin listed the same items.

Mr. McMullin requested and received an evidentiary hearing from the SLA regarding his exclusive rights to sell carbonated beverages at the Federal Office Building in Richland, Washington. On April 9, 1991, an Administrative Law Judge (ALJ) for the State of Washington rendered a decision stating that, ''[t]he petitioner did not have an exclusive permit to sell carbonated beverages and other related items at the canteen at the Richland Federal Building.'' Therefore, the ALJ denied Mr. McMullin's petition for relief and for attorney's fees. Subsequently, the SLA adopted the ALJ's opinion as final agency action.

On April 29, 1991, the complainant filed a request with the Secretary of Education to convene a Federal arbitration panel to review the decision of the SLA. An arbitration hearing was held March 12 and 13, 1992.

Arbitration Panel Decision

A majority of the panel ruled that Mr. McMullin did not have an exclusive right to sell carbonated beverages in the Richland Federal Office Building. The panel concluded that, under the Randolph-Sheppard Act, the categories of items to be sold by a blind vendor are fixed in the permit granted by a Federal property managing agency to a State licensing agency. The blind vendor is not the recipient of that permit, nor does the vendor have a contractual relationship with either the property managing agency or the State agency. The vendor receives only a license to operate the vending facility under the terms of the permit held by the State agency. The license is subject to revocation or alteration by the SLA. The panel reasoned that Mr. McMullin had benefited from the Department's advocacy of what was referred to as his ''exclusive right'' to sell carbonated beverages and that, when GSA requested the SLA to submit new permits for the vending facility and the cafeteria, there was nothing to preclude the SLA from changing the categories of items to be sold at the vending facility. The panel member representing complainant dissented from the majority on this point arguing that the governing regulations require involvement of a blind vendor in selection of items to be sold and that the SLA had failed to advocate the complainant's position.

A majority of the panel ruled that Mr. McMullin was not entitled to substantive relief. A different majority concluded that the SLA had so frequently asserted that Mr. McMullin had an exclusive right to sell carbonated beverages that its conduct provided a strong basis for complainant to contest what he believed to be an illegal and improper revision of those rights. Consequently, in asserting those rights, Mr. McMullin was forced to incur considerable legal fees and other costs in challenging changes made regarding operation of his vending facility. That majority ruled that Mr. McMullin was entitled to an award of attorney's fees and other costs that he had incurred in asserting his rights because of his reliance on the SLA's longstanding support of his position. However, the panel member representing the SLA considered that attorney's fees should be awarded only to vendors who succeed on the merits of their claims.

The final award by the arbitration panel held that Mr. McMullin was not entitled to a reinstatement of the alleged exclusive right to sell carbonated beverages. The panel did not award him any damages. However, the award did direct the SLA to compensate Mr. McMullin for the attorney's fees and other litigation costs and expenses he incurred in challenging the revisions made in the permit held by the SLA.

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

Dated: January 17, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–1579 Filed 1–20–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Financial Assistance Award: Dr. Eskil Karlson

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE-FG01–95EE15629 to Dr. Eskil Karlson of Life Support Incorporated. The proposed grant will provide funding in the estimated amount of $93,675 by the Department of Energy for the purpose of saving energy through development of the inventor's Ozone Generator Dielectric Improvement innovation which replaces the energy dissipative glass insulator in ozone generating devices with a high-dielectric, high-breakdown-voltage ceramic thin film.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Dr. Eskil Karlson is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. Laboratory tests have shown this method has already attained a reduction in energy requirements for ozone production of about 50 percent. The inventor and principal investigator, Dr. Eskil Karlson, who has over 100 patents and over twenty years experience in the field of ozone generation, will use his skills and experience and the engineering facilities of Life Support Incorporated for this project. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.23, 1000 Independence Avenue, SW., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on January 13, 1995.

Richard G. Lewis,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–1640 Filed 1–20–95; 8:45 am]

BILLING CODE 6450–01–P

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.