

The purpose of the FEIS was to analyze and disclose the potential environmental consequences of the disposal of real property and the reuse of the base outside the area retained by the US Air Force.

The Air Force issued a Record of Decision (ROD) on May 19, 1995, which documented a series of decisions in regard to parcel disposal, the organizations or agencies to receive certain parcels; the means for parcel disposal (Federal transfer, public benefit conveyance, negotiated sale, or public sale); and the mitigation measures to be adopted. The Air Force issued a Supplemental Record of Decision (SROD) on April 23, 1996, which clarified that the base electrical system would be disposed of by negotiated sale. The SROD also, made modifications to the ROD concerning the size of various parcels of land to be transferred to the Army and the Rickenbacker Port Authority (RPA).

Since the SROD was issued, the RPA and other Federal agencies have requested that the SROD and ROD be revised to reconcile certain property disposal decisions. Consequently, this RSROD adjusted the acreage of various parcels of land and clarified the intended disposal of the water and waste water sewer system to the RPA.

These disposal activities and any associated mitigation measures will proceed with minimal adverse impact to the environment. This action conforms with applicable Federal, State and local statutes and regulations, and all reasonable and practical efforts have been incorporated to minimize harm to the local public and the environment.

Any questions regarding this matter should be directed to Mr. John P. Carr, Program Manager at (703) 696-5547. Correspondence should be sent to: AFBCA/DA, 1700 North Moore Street, Suite 2300, Arlington, VA 22209-2802.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 97-19934 Filed 7-28-97; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Deadline for Submission of Donation Application for the Aircraft Carrier Ex-MIDWAY (CV 41)

SUMMARY: The Department of the Navy hereby gives notice of the deadline of November 12, 1997 for submission of a donation application for the Multi-Purpose Aircraft Carrier ex-MIDWAY

(CV 41), located at the Naval Inactive Ship Maintenance Facility, Bremerton, Washington, under the authority of 10 U.S.C. Section 7306. Eligible recipients include: (1) Any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof; (2) the District of Columbia; or (3) any not-for-profit or nonprofit entity. Transfer of a vessel under this law shall be made at no cost to the United States Government. The transferee will be required to maintain the vessel in a condition satisfactory to the Secretary of the Navy as a static museum/memorial. Prospective transferees must submit a comprehensive, detailed application addressing their plans for managing the significant financial, technical, and environmental responsibilities that accompany ships donated under this program.

FOR FURTHER INFORMATION CONTACT: Ms. Gloria Carvalho, Congressional and Public Affairs Office, Naval Sea Systems Command, NAVSEA 00D1C, 2531 Jefferson Davis Hwy, Arlington, VA 22242-5160, telephone number (703) 602-1575.

Dated: July 18, 1997.

M.D. Sutton,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97-19844 Filed 7-28-97; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive License; M.E. Harris & Company

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to M.E. Harris & Company a revocable, nonassignable, exclusive license in the United States to practice the Government owned inventions described in: U.S. Patent Number 5,190,624 entitled Electrorheological Fluid Chemical Processing; U.S. Patent Number 5,194,181 entitled Process for Shaping Articles from Electrosetting Compositions; U.S. Patent Number 5,518,664 entitled Programmable Electroset Processes; U.S. Patent Pending; Navy Case Number 75,833 entitled Programmable Electroset Materials and Process.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Naval Surface Warfare Center, Carderock Division, Code 004, 9500

MacArthur Blvd., West Bethesda, MD 20817-5700.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Bloomquist, Director, Technology Transfer, Naval Surface Warfare Center, Carderock Division, Code 0117, 9500 MacArthur Blvd., West Bethesda, MD 20817-5700, telephone number (301) 227-4299.

Dated: July 16, 1997.

M. D. Sutton,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97-19832 Filed 7-28-97; 8:45 am]

BILLING CODE 3810-FF-P

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: Notice is hereby given that on June 11, 1996, an arbitration panel rendered a decision in the matter of *Mississippi Department of Rehabilitation Services v. United States Department of Defense, Department of the Air Force (Docket No. R-S/94-3)*. This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(b), upon receipt of a complaint filed by the Mississippi Department of Rehabilitation Services.

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, SW., Room 3230, Mary E. Switzer Building, Washington, DC 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 in the **Federal Register** a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal and other property.

Background

On or about June 24, 1993, the U. S. Department of Defense, Department of the Air Force (Air Force), issued a request for proposals (RFP) for full food services at Keesler Air Force Base, Mississippi. The Mississippi Department of Rehabilitation Services, State licensing agency (SLA), responded

to the RFP, providing both technical and cost information.

In August 1993, the Air Force's Technical Evaluation Committee (TEC) met to evaluate the SLA's proposal along with the other proposals that were submitted. Subsequently, the Air Force contracting officer informed the SLA that its proposal was determined to be within the competitive range along with 15 of the original 19 offerors. On September 16, 1993, the TEC sent a discussion letter to the SLA and to the other offerors who were within the competitive range. Shortly thereafter, the SLA responded to the Air Force regarding the questions asked in the discussion letter.

On September 28, 1993, the SLA filed a protest with the Air Force's contracting officer concerning the Air Force's alleged failure to award the SLA the food service contract following the determination that it was within the competitive range. The SLA contends that, based upon Department of Defense (DOD) Directive 1125.3 and regulations of the Secretary of Education (34 CFR 395.33(b)), either the contract must be awarded to the SLA following a determination that the SLA is within the competitive range established by the contracting office or the contracting office must consult with the Secretary of Education regarding its justification for not doing so. The Air Force never responded to the SLA's protest, nor was the contract awarded to the SLA.

On November 12, 1993, the TEC met to review the offerors' responses to questions asked regarding DOD's concerns and determined that 9 of the 13 remaining offerors' proposals, including the SLA's, were acceptable. Subsequently, the contracting officer sent a second round of discussion letters to all 13 offerors, including those that were deemed technically unacceptable. The SLA received the second discussion letter on November 23, 1993, and again responded, objecting to the Air Force's failure to comply with Randolph-Sheppard requirements. At the same time, in order to maintain its eligibility for the award, the SLA fully responded to all discussion questions.

The TEC again met and conducted a final technical evaluation, at which time the SLA's proposal was determined to be fully acceptable from a technical standpoint. However, the contracting officer later made a determination that the SLA's proposal was technically unacceptable as the result of its response to a section of the RFP regarding the use of sighted employees.

Subsequently, a second competitive range was established by the Air Force's contracting officer. Following the

establishment of the second competitive range, the SLA received from the Air Force a Determination for Exclusion letter indicating the exclusion of the SLA's proposal. The Air Force's stated reasons for the exclusion of the SLA's proposal from the second competitive range were the SLA's response on the use of sighted employees at the facility and the SLA's higher pricing structure compared to the other offerors within the competitive range.

Arbitration Panel Decision

The issues heard by the arbitration panel were—(1) Whether the Air Force violated the Randolph-Sheppard Act, 20 U.S.C. 107 *et seq.*; Air Force regulation 34-2, DOD Directive 1125.3; Section L-901 of RFP No. F222600-92-R-0156; and Randolph-Sheppard regulations in 34 CFR 395.33 by its alleged failure to award the full food service contract to the SLA and by its alleged failure to consult with the Secretary of Education following the determination that the SLA was within the competitive range; and (2) Whether the Air Force's alleged arbitrary, capricious, and bad faith conduct violated the Administrative Procedures Act, 5 U.S.C. 706, and Federal Acquisition Regulations, 48 CFR 1.602-2(b) and 48 CFR 15.608(a).

As to the first issue, the panel majority concluded that the process by which the Air Force determined the competitive range in March 1994 was fully in accord with all governing laws and regulations. Specifically, the majority members concluded that an earlier decision by the contracting officer that 4 of the 19 offerors had submitted noncomplying proposals, based upon a review for technical sufficiency, did not establish a competitive range within the meaning of DOD Directive 1125.3 or Randolph-Sheppard regulations in 34 CFR 395.33(b). The panel majority ruled that the Air Force determined a competitive range, as contemplated under the governing regulations, only after full cost data was submitted by the 15 remaining offerors, including the SLA, who were solicited on the basis of their technically sufficient initial submissions. The panel majority concluded the SLA was properly excluded from the final competitive range because its proposal was not competitive in comparison to the numerous proposals offering lower costs.

One panel member dissented regarding this part of the majority opinion.

The panel members unanimously ruled that the Air Force violated the Randolph-Sheppard Act and applicable

regulations by excluding the SLA from the competitive range, in part, because of its alleged failure to give the assurance required concerning minimizing the employment of sighted persons at the cafeteria facility. The panel ruled that compliance issues raised by this requirement should be addressed through pre-contract negotiations with the contractor and not by exclusion from the bid process. The majority of the panel ruled, however, that this action by the Air Force was a harmless error inasmuch as the SLA's proposal had been properly excluded on other grounds.

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

Dated: July 23, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97-19865 Filed 7-28-97; 8:45 am]

BILLING CODE 4000-01-P

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: Notice is hereby given that on April 4, 1997, an arbitration panel rendered a decision in the matter of *Robert Smith v. Michigan Commission for the Blind* (Docket No. R-S/96-4). This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(a), upon receipt of a complaint filed by petitioner, Robert Smith.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnaw, U.S. Department of Education, 600 Independence Avenue, SW., Room 3230, Mary E. Switzer Building, Washington, DC 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 in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.