

Dated: July 15, 2003.

**Angela C. Arrington,**

*Leader, Regulatory Information Management Group, Office of the Chief Information Officer.*

### Federal Student Aid

*Type of Review:* Extension.

*Title:* Lender's Request for Payment of Interest and Special Allowance—LaRS.

*Frequency:* Quarterly, Annually.

*Affected Public:* Businesses or other for-profit; State, local or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 14,184.

*Burden Hours:* 34,573.

*Abstract:* The Lender's Request for Payment of Interest and Special Allowance—LaRS (ED Form 799) is used by approximately 3,546 lenders participating in the Title IV, Part B loan programs. The ED Form 799 is used to pay interest and special allowance to holders of the Part B loans; and to capture quarterly data from lender's loan portfolio for financial and budgetary projections.

Requests for copies of the submission for OMB review; comment request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 2273. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202-4651 or to the e-mail address [Vivan.Reese@ed.gov](mailto:Vivan.Reese@ed.gov). Requests may also be electronically mailed to the Internet address [OCIO\\_RIMG@ed.gov](mailto:OCIO_RIMG@ed.gov) or faxed to 202-708-9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address [Joe.Schubart@ed.gov](mailto:Joe.Schubart@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

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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 Department gives notice that on July 26, 2002, an arbitration panel rendered a decision in the matter of *Illinois Department of Human Services, Office of Rehabilitation Services v. U.S. Department of Defense, Department of the Navy (Docket No. R-S/01-02)*. This panel was convened by the U.S. Department of Education, under 20 U.S.C. 107d-1(b), after the Department received a complaint filed by the petitioner, Illinois Department of Human Services, Office of Rehabilitation Services.

**SUPPLEMENTARY INFORMATION:** Under section 6(c) of the Randolph-Sheppard Act (the 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.

### Background

This dispute concerns the alleged improper awarding of a full food service contract to a nonprofit agency under the Javits-Wagner-O'Day Act (JWOD) by the U.S. Department of Defense, Department of the Navy (Navy), in violation of the Act (20 U.S.C. 107 *et seq.*) and the implementing regulations in 34 CFR part 395.

A summary of the facts is as follows: On March 16, 1998, in response to solicitation N00140-98-R-1159, the State licensing agency (SLA) notified the Navy in writing that it wished to operate the full food service contract for the Naval Training Center and Recruitment Training Center in Great Lakes, Illinois. On May 12, 1998, the Navy responded that the contract was being awarded to Goodwill Services, Inc., of Southern Wisconsin under the provisions of JWOD. A **Federal Register** notice, dated May 8, 1998, announced this pending contract award and allowed 30 days for public comment.

The SLA did not submit any comments pursuant to the **Federal Register** notice. Nearly seven months later, on December 28, 1998, the SLA informed the Navy of its concern that the Navy awarded this contract under JWOD and indicated that it was prepared to take the matter to arbitration under the Act. The SLA also informed the Navy, in an opinion dated November 12, 1998, that the General Counsel for the Department of Defense (DOD) advised that the Act is applicable to military dining facilities. As a result, the SLA indicated that arbitration was unnecessary and that it was eager to

enter into negotiations with the Navy for a full food service contract at the facility to be operated by a blind vendor in accordance with the Act. On April 6, 1999, the Navy responded that it had no authority to terminate this contract issued pursuant to JWOD.

There was no further communication between the parties until October 10, 2000, when the SLA requested that the Secretary of Education convene a Federal arbitration panel to hear this complaint. A panel was convened and a hearing on this matter was held on April 9 and 10, 2002.

### Arbitration Panel Decision

The issues heard by the panel were— (1) Whether the Navy, in accordance with the Act, must grant priority to the SLA for a contract so that full food services at the Great Lakes Naval Training Center may be provided by a licensed blind vendor; (2) whether the Act, which affords licensed blind vendors statutory priority to operate cafeterias and vending stands on Federal property, including that of DOD/Navy, takes precedence over the JWOD Act; (3) whether an arbitration panel convened under the Act has jurisdiction to determine if the Act takes precedence over the JWOD Act; (4) whether a contracting office has authority to issue a competitive procurement for services that are currently on the JWOD procurement list; and (5) whether the SLA waived any right it may have had to challenge the inclusion of the disputed food services on the JWOD procurement list and the subsequent award of a contract for those services to private vendors.

After considering all of the evidence, including the post-hearing briefs submitted by both parties, the majority of the panel ruled that the dispute should be resolved in favor of the Navy under the laches doctrine because of the SLA's delay in filing for Federal arbitration.

The SLA had alleged that the delay in filing the arbitration request of over 18 months since the time of the last communication from the Navy was not unreasonable because the SLA had program responsibilities under both the Act and JWOD and needed to balance the policy needs under both authorities before determining whether to file for Federal arbitration.

However, the panel determined that there was no reasonable cause for delay by the SLA in seeking Federal arbitration under the Act. The panel's decision was based upon the finding that there are strong reasons to require both timely action and finality in

resolving arbitration disputes under the Act.

The panel also determined that the SLA's delay in seeking arbitration greatly prejudiced the Navy and the facility and its current contractor and that there was no reasonable cause for the delay. Therefore, the panel concluded that the SLA had waived its right to Federal arbitration and dismissed the complaint without ruling on the merits of the case.

One panel member dissented.

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

**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 3232, Mary E. Switzer Building, Washington, DC 20202-2738. Telephone: (202) 205-8536. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205-8298.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large 1 print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** 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 on GPO Access at: <http://www.access.gpo.gov/nara/index.html>

Dated: July 15, 2003.

**Loretta Petty Chittum,**

*Acting, Assistant Secretary for Special Education and, Rehabilitative Services.*

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## DEPARTMENT OF ENERGY

### Energy Employees Occupational Illness Compensation Program Act of 2000; Revision to List of Covered Facilities

**AGENCY:** Department of Energy.

**ACTION:** Notice of revision of listing of covered facilities.

**SUMMARY:** Periodically, the Department of Energy ("Department" or "DOE") publishes a list of facilities covered under the Energy Employees Occupational Illness Compensation Program Act of 2000 ("Act"), Title 36 of Public Law 106-398. (66 FR 4003; 66 FR 31218). The Act establishes a program to provide compensation to individuals who developed illnesses as a result of their employment in nuclear weapons production-related activities and at certain federally owned facilities in which radioactive materials were used. This notice revises the previous lists and provides additional information about the covered facilities, atomic weapons employers, and beryllium vendors. The original notice provides detailed background information about this matter. Previous lists were published on January 17, 2001, June 11, 2001 and December 27, 2002.

**FOR FURTHER INFORMATION CONTACT:** Office of Worker Advocacy, 1-877-447-9756.

**ADDRESSES:** The Department welcomes comments on this list. Individuals who wish to suggest additional facilities for inclusion on the list or indicate why one or more facilities should be removed from the list should provide information to the Department. Comments should be addressed to:

Office of Worker Advocacy (EH-8), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, e-mail: [worker\\_advocacy@eh.doe.gov](mailto:worker_advocacy@eh.doe.gov), toll free: 1-877-447-9756, URL: <http://tis.eh.doe.gov/advocacy/>.

#### SUPPLEMENTARY INFORMATION:

##### Purpose

The Energy Employees Occupational Illness Compensation Program Act of 2000 ("Act"), Title 36 of Public Law 106-398, establishes a program to provide compensation to individuals who developed illnesses as a result of their employment in nuclear weapons production-related activities and at certain federally owned facilities in which radioactive materials were used. On December 7, 2000, the President issued Executive Order 13179 ("Order") directing the Department of Energy ("Department" or "DOE") to list covered

facilities in the **Federal Register**. This notice revises the previous lists and provides additional information about the covered facilities, atomic weapons employers, and beryllium vendors.

Section 2. c. iv of the Order instructs the Department to designate, pursuant to sections 3621(4)(B) and 3622 of the Act, atomic weapons. In addition, section 2. c. vii of the Order instructs the Department to list three types of facilities defined in the Act:

- (1) Atomic weapons employer facilities, as defined in section 3621 (4);
- (2) Department of Energy facilities, as defined by section 3621 (12); and
- (3) Beryllium vendors, as defined by section 3621 (6).

Compensation options and mechanisms are defined differently for each of these facility categories. The atomic weapons employer category includes atomic weapons employer facilities in which the primary work was not related to atomic weapons, and consequently these facilities are not commonly known as atomic weapons facilities. Their inclusion in this list is consistent with the Act, and is not intended as a classification for any other purpose.

The list at the end of this notice represents the Department's best efforts to date to compile a list of facilities under these three categories. This listing includes 362 facilities in 46 jurisdictions. Today's publication of the list includes the designation of 14 additional DOE facilities, including ten Ore Buying Stations. It clarifies one listing, narrows one listing, and changes one AWE to a DOE. Also, for ten facilities previously listed with AWE/DOE dual designations, the DOE designation has been dropped because it was learned that no work occurred at those locations as part of site remediation. Two AWE facilities were dropped entirely, one because it was learned that no radioactivity was used at that location and the other because the type of work, which took place there, was determined not to be covered Atomic Weapons Employer activity.

To assist the public in understanding changes made in this list, the Department has prepared a description of these changes and made it available at the Web site noted. A copy may also be obtained by request to the Office of Worker Advocacy. The Department is continuing its research efforts, and continued revisions to this list should be expected. The public is invited to comment on the list and to provide additional information.

In addition to continuing its research efforts, the Department has developed information dissemination mechanisms