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. 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 each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

This dispute arose as the result of the revocation of Mr. Robert Smith's vending license by the Michigan Commission for the Blind, the State licensing agency (SLA). The SLA alleged that Mr. Smith failed to comply with several vending facility program rules governing the operation and administration of the Michigan Business Enterprise Program.

Mr. Smith had operated facilities in the SLA's vending facility program since May, 1987. His most recent assignment was the Mason Building Cafeteria, which he operated from September 1993 until his license revocation, which was effective June 16, 1995.

The SLA alleged that Mr. Smith failed to—(1) Furnish reports in a proper manner; (2) pay set-aside fees in a timely fashion by the required due date; (3) operate the facility in accordance with applicable health laws and rules; (4) cooperate with commission representatives in the performance of official duties and responsibilities; and (5) pay food suppliers in a timely manner in accordance with applicable credit policies.

On June 23, 1995, Mr. Smith filed a request with the SLA for a full evidentiary hearing stating that he had complied with all applicable rules and regulations concerning the Mason Building Cafeteria. A State fair hearing was held on January 4, 1996.

On January 19, 1996, an Administrative Law Judge (ALJ) recommended that, based on the hearing testimony, Mr. Smith's license not be revoked and that the SLA continue to assist him with respect to the deficiencies relating to the management and operation of the Mason Building Cafeteria.

By letter dated March 6, 1996, Mr. Smith was informed that the Michigan Commission for the Blind Board of Directors on February 19, 1996, rejected the recommendation of the ALJ that complainant's license not be revoked. This decision constituted final agency action.

Mr. Smith sought review of this decision by a Federal arbitration panel. A hearing on this case was held on August 1, 1996.

Arbitration Panel Decision

The issues before the arbitration panel were—(1) Whether the SLA's action in revoking Mr. Smith's license to operate the Mason Building Cafeteria was in accordance with the Randolph-Sheppard Act (the Act), implementing regulations, and State rules and regulations; and (2) whether the SLA engaged in undue harassment and caused injury to the complainant by his license revocation and the closing of the cafeteria.

A majority of the panel ruled that Mr. Smith was in violation of the Act, implementing regulations, and State rules and regulations by reason of his failure to furnish reports as required and to pay set-aside fees. In addition, the majority of the panel found that Mr. Smith did not operate the facility in accordance with health laws and rules. Not only was he in violation of the laws administered by the county health department, but he failed to meet the health and safety standards of the SLA. Mr. Smith also failed to follow specific instructions concerning sanitation and disposal of waste products and to pay for merchandise in accordance with the terms of credit of his suppliers.

Further, the majority of the arbitration panel stated that the allegation of harassment had been carefully examined and found to be without merit. There had been no showing through testimony or evidence that Mr. Smith was treated disparately or that the rules were applied to him in an arbitrary or capricious manner.

The majority of the panel concluded that the SLA's action in revoking Mr. Smith's license was in accordance with the Act, the implementing regulations, and State rules and regulations and that Mr. Smith was not subjected to undue harassment in the operation of his facility.

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.

Dated: July 23, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–19866 Filed 7–28–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 97–36–NG]

Office of Fossil Energy; Coastal Gas Marketing Company; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Coastal Gas Marketing Company (CGM) long-term authorization to import up to 5 MMcf of natural gas of Canadian natural gas for a period of ten years, beginning on November 1, 1997, under the terms and conditions of a letter agreement dated February 20, 1997, with Ranger Oil Limited. This natural gas may be imported at Niagara Falls, New York, or at alternative border points with transportation facilities accessible by CGM.

This order is available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., July 7, 1997.

Wayne E. Peters,

Manager, Natural Gas Regulation, Office of Natural Gas and Petroleum Import and Export Activities, Office of Fossil Energy.

[FR Doc. 97–19918 Filed 7–28–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 97–41–NG]

Office of Fossil Energy; Coenergy Trading Company; Order Granting Long-Term Authorization To Export Natural Gas To Canada For Subsequent Re-Import To The United States

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued DOE/FE Order No. 1280 on June 20, 1997, granting CoEnergy Trading Company a ten-year authorization to export up to 80,000 Mcf per day (29.2 Bcf annually) to Canada for re-import to the United States. The term of the authorization is for a period commencing November 1, 1998, through October 31, 2008. This gas may be exported from the United States at the existing interconnection of TransCanada PipeLines Limited and Great Lakes Gas Transmission Limited Partnership near St. Clair, Michigan, and re-imported into the United States at the interconnection of the Trans Quebec and Maritimes Pipeline and the proposed Portland Natural Gas Transmission System near Pittsburg, New Hampshire.

This order is available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export