

Presidential Proclamation 7351, the President proclaimed that this treatment would apply to apparel articles from fabrics or yarn designated by the appropriate U.S. government authority in the **Federal Register**. In Executive Order 13191, the President authorized CITA to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner.

On July 30, 2004, the Chairman of CITA received three petitions from Sandler, Travis, and Rosenberg, P.A., on behalf of Picacho, S.A., alleging that certain woven, 100 percent cotton, flannel fabrics, of detailed specifications, classified in indicated HTSUS subheadings, for use in shirts, trousers, nightwear, robes, dressing gowns, and woven underwear, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the CBTPA for such apparel articles that are both cut and sewn in one or more CBTPA beneficiary countries from such fabrics. On August 6, 2004, CITA requested public comment on the petition. See Request for Public Comment on Commercial Availability Petition under the United States-Caribbean Basin Trade Partnership Act (CBTPA) (69 FR 47915). On August 24, 2004, CITA and the U.S. Trade Representative (USTR) sought the advice of the Industry Trade Advisory Committee for Textiles and Clothing and the Industry Trade Advisory Committee for Distribution Services. On August 24, 2004, CITA and USTR offered to hold consultations with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (collectively, the Congressional Committees). On August 25, 2004, the U.S. International Trade Commission provided advice on the petitions.

Based on the information and advice received and its understanding of the industry, CITA determined that the fabrics set forth in the petitions cannot be supplied by the domestic industry in commercial quantities in a timely manner. On September 10, 2004, CITA and USTR submitted a report to the Congressional Committees that set forth the action proposed, the reasons for such action, and advice obtained. A period of 60 calendar days since this report was submitted has expired.

CITA hereby designates as eligible for preferential treatment under HTSUS subheading 9820.11.27, products covered by textile categories 340, 341, 347, 348, 350, 351, and 352, that are both cut and sewn or otherwise assembled in one or more eligible

CBTPA beneficiary countries, from certain woven, 100 percent cotton, flannel fabrics, of the specifications detailed below, classified in the indicated HSTUS subheadings, not formed in the United States, provided that all other fabrics are wholly formed in the United States from yarns wholly formed in the United States, subject to the special rules for findings and trimmings, certain interlinings and de minimis fibers and yarns under section 112(d) of the CBTPA, and that such articles are imported directly into the customs territory of the United States from an eligible CBTPA beneficiary country.

### Specifications

#### Fabric 1

Petitioner Style No: 4835  
 HTS Subheading: 5208.42.30.00  
 Fiber Content: 100% Cotton  
 Weight: 152.6 g/m2  
 Width: 150 centimeters cuttable  
 Thread Count: 24.4 warp ends per centimeter; 15.7 filling picks per centimeter; total: 40.1 threads per square centimeter  
 Yarn Number: Warp: 40.6 metric, ring spun; filling: 20.3 metric, open end spun; overall average yarn number: 39.4 metric  
 Finish: of yarns of different colors; napped on both sides, sanforized

#### Fabric 2

Petitioner Style No: 0443B  
 HTS Subheading: 5209.41.60.40  
 Fiber Content: 100% Cotton  
 Weight: 251 g/m2  
 Width: 160 centimeters cuttable  
 Thread Count: 22.8 warp ends per centimeter; 17.3 filling picks per centimeter; total: 40.1 threads per square centimeter  
 Yarn Number: Warp: 40.6 metric, ring spun; filling: 8.46 metric, open end spun; overall average yarn number: 24.1 metric  
 Finish: Of yarns of different colors; napped on both sides, sanforized

#### Fabric 3

Petitioner Style No: 4335  
 HTS Subheading: 5209.41.60.40  
 Fiber Content: 100% Cotton  
 Weight: 251 g/m2  
 Width: 160 centimeters cuttable  
 Thread Count: 20.1 warp ends per centimeter; 16.5 filling picks per centimeter; total: 36.6 threads per square centimeter  
 Yarn Number: Warp: 27.07 metric, ring spun; filling: 10.16 metric, open end spun; overall average yarn number: 23.3 metric  
 Finish: Of yarns of different colors; napped on both sides, sanforized

An "eligible CBTPA beneficiary country" means a country which the President has designated as a CBTPA beneficiary country under section 213(b)(5)(B) of the CBERA (19 U.S.C.

2703(b)(5)(B)) and which has been the subject of a finding, published in the **Federal Register**, that the country has satisfied the requirements of section 213(b)(4)(A)(ii) of the CBERA (19 U.S.C. 2703(b)(4)(A)(ii)) and resulting in the enumeration of such country in U.S. note 1 to subchapter XX of Chapter 98 of the HTSUS.

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

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BILLING CODE 3510-DR-S

## DEPARTMENT OF EDUCATION

[CFDA No. 84.031H]

### Office of Postsecondary Education; Strengthening Institutions (SIP), American Indian Tribally Controlled Colleges and Universities (TCCU), Alaska Native and Native Hawaiian-Serving Institutions (ANNH) and Developing Hispanic-Serving Institutions (HSI) Programs; Notice Inviting Applications for Designation as Eligible Institutions for Fiscal Year (FY) 2005

*Purpose of Programs:* Under the SIP, TCCU, and ANNH Programs, (Title III Part A programs) authorized under Part A of Title III of the Higher Education Act of 1965, as amended (HEA), institutions of higher education are eligible to apply for grants if they meet specific statutory and regulatory eligibility requirements. Similarly, institutions of higher education are eligible to apply for grants under the HSI Program, authorized under Title V of the HEA, if they meet specific statutory and regulatory requirements. In addition, an institution that is designated as an eligible institution under those programs may also receive a waiver of certain non-Federal share requirements under the Federal Supplemental Educational Opportunity Grant (FSEOG), the Federal Work Study (FWS), the Student Support Services (SSS) and the Undergraduate International Studies and Foreign Language (UISFL) Programs. The FSEOG, FWS and SSS Programs are authorized under Title IV of the HEA; the UISFL Program is authorized under Title VI of the HEA.

Qualified institutions may receive these waivers even if they are not recipients of grant funds under the Title III, Part A Programs or the HSI Program.

*Special Note:* To qualify as an eligible institution under the Title III, Part A Programs or the HSI Program, your institution must satisfy several criteria,

including one related to needy student enrollment and one related to average Educational and General (E&G) expenditures for a particular base year. The most recent data available for E&G expenditures is for base year 2001–2002. In order to award FY 2005 grants in a timely manner, we will use the most recent data available. Therefore, we will use E&G expenditure threshold data from the base year 2001–2002. In completing your eligibility application, please use E&G expenditure data from the base year 2001–2002.

**Eligible Applicants:** To qualify as an eligible institution under the Title III, Part A Programs or the HSI Program, an accredited institution must, among other requirements, have an enrollment of needy students, and its average E&G expenditures per full-time equivalent (FTE) undergraduate student must be low in comparison with the average E&G expenditures per FTE undergraduate student of institutions that offer similar instruction. To be an eligible Hispanic Serving Institution, an institution must—

(1) Be accredited or preaccredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered;

(2) Be legally authorized by the State in which it is located to be a junior college or to provide an educational program for which it awards a bachelor's degree;

(3) Have an enrollment of needy students as described in the *Enrollment Of Needy Students* section of this notice;

(4) Have low average educational and general expenditures per full-time equivalent undergraduate student as described in the *Educational And General Expenditures Per Full-Time Equivalent Student* section of this notice and the application booklet;

(5) Have, at the time of application, an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students; and

(6) Provide assurances that not less than 50 percent of its Hispanic students are low-income individuals.

**Note:** Numbers five and six above are required at the time of submission of the grant application.

The complete eligibility requirements for the Title III, Part A Programs are found in 34 CFR 607.2 through 607.5. These regulations may be accessed by visiting the following Department of Education Web site: [http://www.access.gpo.gov/nara/cfr/waisidx\\_02/34cfr607\\_02.html](http://www.access.gpo.gov/nara/cfr/waisidx_02/34cfr607_02.html). The complete eligibility requirements for the HSI Program are found in 34 CFR 606.2 through 34 CFR 606.5. These regulations may be accessed by visiting the following Department of Education Web site: [http://www.access.gpo.gov/nara/cfr/waisidx\\_01/34cfr606\\_01.html](http://www.access.gpo.gov/nara/cfr/waisidx_01/34cfr606_01.html).

**Enrollment of Needy Students:** Under 34 CFR 606.3(a) and 607.3(a), an institution is considered to have an enrollment of needy students if (1) at least 50 percent of its degree students received financial assistance under one or more of the following programs: Federal Pell Grant, FSEOG, FWS, and Federal Perkins Loan Programs; or (2) the percentage of its undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants exceeded the median percentage of undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants at comparable institutions that offered similar instruction.

To qualify under this latter criterion, an institution's Federal Pell Grant percentage for base year 2002–2003 must be more than the median for its category of comparable institutions provided in the table in this notice.

**Educational And General Expenditures Per Full-Time Equivalent Student:** An institution should compare its 2001–2002 average E&G expenditures per FTE student to the average E&G expenditure per FTE student for its category of comparable institutions contained in the table in this notice. If the institution's average E&G expenditures for the 2001–2002 base year are less than the average for its category of comparable institutions, it meets this eligibility requirement.

An institution's average E&G expenditures are the total amount it expended during the base year for instruction, research, public service, academic support, student services, institutional support including library expenditures, operation and

maintenance, scholarships and fellowships, and mandatory transfers.

The following table identifies the relevant median Federal Pell Grant percentages for the base year 2002–2003 and the relevant average E&G expenditures per FTE student for the base year 2001–2002 for the four categories of comparable institutions:

Type of institution	2002–2003 Median Pell grant percentage	2001–2002 Average E&G per FTE
2-year Public Institutions .....	24.6	\$8,738
2-year Non-Prof-it Private Institutions .....	40.6	22,452
4-year Public Institutions .....	20.9	21,037
4-year Non-Prof-it Private Institutions .....	21.7	33,509

**Waiver Information:** Institutions of higher education that are unable to meet the needy student enrollment requirement or the average E&G expenditures requirement may apply to the Secretary for waivers of these requirements, as described in 34 CFR 606.3(b), 606.4(c) and (d), 607.3(b) and 607.4(c) and (d). Institutions requesting a waiver of the needy student enrollment requirement or the average E&G expenditures requirement must include in their application detailed information supporting the waiver request, as described in the instructions for completing the application.

The regulations governing the Secretary's authority to waive the needy student requirement waiver, 34 CFR 606.3(b)(2) and (3) and 607.3(b)(2) and (3) refers to "low-income" students or families. The regulations define "low-income" as an amount that does not exceed 150 percent of the amount equal to the poverty level, as established by the U.S. Bureau of the Census, 34 CFR 606.3(c) and 607.3(c).

For the purposes of this waiver provision, the following table sets forth the low-income levels for the various sizes of families:

2004 ANNUAL LOW-INCOME LEVELS

Size of family unit	Contiguous 48 states, the District of Columbia and outlying	Alaska	Hawaii
1 .....	\$13,965	\$17,445	\$16,050

## 2004 ANNUAL LOW-INCOME LEVELS—Continued

Size of family unit	Contiguous 48 states, the District of Columbia and outlying	Alaska	Hawaii
2 .....	18,735	23,415	21,540
3 .....	23,505	29,385	27,030
4 .....	28,275	35,355	32,520
5 .....	33,045	41,325	38,010
6 .....	37,815	47,295	43,500
7 .....	42,585	53,265	48,990
8 .....	47,355	59,235	54,480

For family units with more than eight members, add the following amount for each additional family member: \$4,770 for the contiguous 48 states, the District of Columbia and outlying jurisdictions; \$5,970 for Alaska; and \$5,490 for Hawaii.

The figures shown under family income represent amounts equal to 150 percent of the family income levels established by the U.S. Bureau of the Census for determining poverty status. The poverty guidelines were published by the U.S. Department of Health and Human Services in the **Federal Register** on February 13, 2004 (69 FR 7336–7338).

The information about “metropolitan statistical areas” referenced in 34 CFR 606.3(b)(4) and 607.3(b)(4) may be obtained by requesting the Metropolitan Statistical Areas, 1999 publication, order number PB99-501538, from the National Technical Information Service, Document Sales, 5285 Port Royal Road, Springfield, Virginia 22161, telephone number 1–800–553–6847. There is a charge for this publication.

*Applications Available:* November 30, 2004.

*Deadline For Transmittal Of Applications:* January 13, 2005, for an applicant institution that wishes to apply for a FY 2005 new grant under the Title III, Part A Programs or the HSI Program; April 28, 2005, for an institution that wishes to apply only for cost-sharing waivers under the FSEOG, FWS, SSS or UISFL Programs; and, January 13, 2005, for an institution that wishes to apply for both a grant under the Title III, Part A Programs or the HSI Program and a waiver of the non-Federal share requirement.

*Electronic Submission Of Applications:* We are requiring that applications for institutional eligibility for FY 2005 under Request for Designation as an Eligible Institution be submitted electronically at the following Web site: <http://webprod.cbmiweb.com/Title3and5/index.html>.

If you are unable to submit an application electronically you may

submit a written request for a waiver of the electronic submission requirement. In the request, you should explain the reason or reasons that prevent you from using the Internet to submit your application. The request should be addressed to: Dr. Maria Carrington, U.S. Department of Education, 1990 K Street, NW., room 6033, Washington, DC 20202-8513. Please submit your request no later than two weeks before the application deadline date.

If, within two weeks of the application deadline date, you are unable to submit an application electronically, you must submit a paper application by the application deadline date in accordance with the transmittal instructions in the application package. The paper application must include a written request for a waiver documenting the reasons that prevented the applicant from using the Internet to submit the application.

To enter the Web site, you must use your institution's unique 8-digit identifier, *i.e.*, your Office of Postsecondary Education Identification Number (OPE ID number). If you receive a hard copy of the eligibility application and instructions from us in the mail, look for the OPE ID number on the address label. Otherwise, your business office or student financial aid office should have the OPE ID number. If your business office or student financial aid office does not have the OPE ID number, contact the Department, using the e-mail addresses of the contact persons listed in this notice under **FOR FURTHER INFORMATION CONTACT**.

You will find detailed instructions for completing the application form electronically under the “eligibility 2005” link at either of the following Web sites: <http://www.ed.gov/programs/duestitle3a.index.html>; or <http://www.ed.gov/his>.

For institutions of higher education that are unable to meet the needy student enrollment requirement or the average E&G expenditure requirement and wish to request a waiver of one or both of those requirements, you must

complete your designation application form electronically and transmit your waiver request narrative document from the following Web site: <http://webprod.cbmiweb.com/Title3and5/index.html>.

If your institution is unable to electronically submit your narrative waiver request, print the electronic application form and mail it along with the waiver request narrative to Dr. Maria Carrington, Team Leader, Institutional Development and Undergraduate Education Service, U.S. Department of Education, 1990 K Street, NW., room 6033, Request for Eligibility Designation, Washington, DC 20202–8513.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations for the Title III, Part A Programs in 34 CFR part 607, and for the HSI Program in 34 CFR part 606.

**FOR FURTHER INFORMATION CONTACT:** Imogene Byers, Don Crews, Ellen M. Sealey, Kelley Harris, Sophia McArdle or Carnisia Proctor, Institutional Development and Undergraduate Education Service, U.S. Department of Education, 1990 K Street, NW., room 6033, Request for Eligibility Designation, Washington, DC 20202–8513. They may be contacted at the following e-mail addresses or phone numbers: [Imogene.Byers@ed.gov](mailto:Imogene.Byers@ed.gov), 202–502–7672; [Don.Crews@ed.gov](mailto:Don.Crews@ed.gov), 202–502–7574; [Ellen.Sealey@ed.gov](mailto:Ellen.Sealey@ed.gov), 202–502–7580; [Kelley.Harris@ed.gov](mailto:Kelley.Harris@ed.gov), 202–219–7083; [Sophia.McArdle@ed.gov](mailto:Sophia.McArdle@ed.gov), 202–219–7078; [Carnisia.Proctor@ed.gov](mailto:Carnisia.Proctor@ed.gov), 202–502–7606.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting those persons.

**Electronic Access to This Document:** You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

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.gpoaccess.gov/nara/index.html>.

**Program Authority:** 20 U.S.C. 1057-1059d, 1101-1103g.

Dated: November 24, 2004.

**Sally L. Stroup,**

*Assistant Secretary for Postsecondary Education.*

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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 18, 2003, an arbitration panel rendered a decision in the matter of *Rodney Jackson v. Tennessee Department of Human Services, the Division for the Blind and Visually Impaired (Docket No. R-S/02-2)*. This panel was convened by the U.S. Department of Education, under 20 U.S.C. 107d-1(a), after the Department received a complaint filed by the petitioner, Rodney Jackson.

**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), you may call the Federal

Information Relay Service (FIRS) at 1-800-877-8339.

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

**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 termination of Mr. Rodney Jackson's vending operator's license by the Tennessee Department of Human Services, the Division for the Blind and Visually Impaired, 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 October 16, 1998, Mr. Rodney Jackson (complainant) was the successful bidder and was assigned by the Tennessee Department of Human Services, the Division for the Blind and Visually Impaired, the State licensing agency (SLA), to operate Facility #218 located in the Shelby County Administrative Complex in Memphis, Tennessee. In 1998, Facility #218 was a vending-only operation and later was converted to a manual food service and vending machine operation.

Complainant alleged that before being assigned to Facility #218, he had completed the SLA's Business Enterprise management training program, graduating as the top student in the class, and had completed a course on health and sanitation from the National Restaurant Association. Complainant also alleged that, from July 1999 through April 2000, he successfully managed Facility #218 in such a manner that he was awarded the title "Rookie of the Year." Moreover, complainant alleged that when he began managing Facility #218, he repeatedly requested cooking utensils, surveillance equipment, mop and food preparation sinks, and a viable connection to the hot food table, which he maintained were not provided at the time Facility #218 was converted from a vending-only facility to a manual food service and vending machine facility. Complainant further alleged that a former disgruntled employee was the motivating factor behind a petition by the Shelby County employees to remove him from Facility #218 and that he had never failed a

Shelby County Government health inspection.

Conversely, the SLA maintained that it complied fully with the Act, implementing regulations, and State laws and regulations governing the removal of complainant from Facility #218 and the revocation of his vending facility operator's license.

The SLA alleged that beginning in or about January 2000 the situation at Facility #218 began to deteriorate. The SLA stated that the facility was closed a number of times when it should have been open, and customers began to complain about sanitation, fluctuating item prices, lack of items in the vending machines, and cleanliness. During the summer of 2000, more than one-third of the employees in the building where Facility #218 was located signed a complaint petition. The SLA further alleged that inspection reports by the SLA showed that complainant failed seven of eight inspections.

In September 2000, the SLA stated that it gave complainant a letter citing poor inspection reports and customer complaints and then placed him on probation. In October 2000, the SLA gave complainant a second notice advising him of a 30-day notice of intent to terminate his operating license.

Subsequently, in November 2000 the property managing official at the Shelby County Administrative Complex sent written notice to the SLA terminating its food and vending machine services. On December 6, 2000, the SLA notified complainant of the termination of his operating license to manage Facility #218.

Complainant requested a State fair hearing, which was held on February 16, 2001. On March 26, 2003, the hearing officer affirmed the SLA's termination of complainant's license and removal from Facility #218.

### Arbitration Panel Decision

The issue heard by the panel was whether the SLA violated the Act, 20 U.S.C. 107 *et seq.*, the implementing regulations in 34 CFR part 395, and the State regulations by allegedly improperly terminating complainant's vendor operating license and removing him from Facility #218, and, if so, what was the appropriate remedy.

After reviewing all of the records and hearing testimony of witnesses, the panel unanimously ruled that the SLA acted properly and in full and fair compliance with the Act, implementing regulations, and State rules and regulations in removing complainant from Facility #218. The panel stated that the SLA has the responsibility to both vendors and customers, as well as to the