contracts to constitute severe adverse impact. In this case, the commenting contractor is not the current contractor for either the underwear proposed for addition to the Procurement List or similar underwear being purchased by another Government agency. Consequently, the Committee does not believe that loss of opportunity to bid on the Marine Corps underwear constitutes severe adverse impact on the contractor. With respect to the nonprofit agency's ability to produce the underwear, the Committee has concluded that it is capable based on the results of inspections by the contracting activity, the cognizant military research and development center, and the central nonprofit agency charged by the Committee with evaluating local organizations' capabilities to furnish the Government with specific products and services.

The other commenting contractor, which is supplying similar underwear to another military customer, raised a number of concerns about the proposed addition. Initially, many of the concerns stemmed from the lack of information in the Committee's files, which led the contractor to the correct conclusion that the Committee at that time was not in a position to make a decision on whether it was appropriate to add the items to the Procurement List. Subsequently, the Committee received the necessary information, which was provided to the contractor and reflected in the firm's second set of comments. These included a concern about the capability of the nonprofit agency to supply an acceptable product, an issue addressed above.

The primary objections of this other contractor relate to the possibility that the Marine Corps underwear proposed for the Procurement List might in the future be purchased by the contractor's current customers instead of the underwear it is supplying. The contractor argued that losing the opportunity to compete to supply the underwear that replaced the garments it was supplying would have a severe adverse impact on its operations, including its employees. In addition, the contractor interpreted a Committee regulation regarding new purchases of similar items to mean that if the underwear for the Marine Corps were added to the Procurement List, other Government agencies purchasing similar items in the future would have to purchase them from the nonprofit agency designated by the Committee. Another Committee regulation regarding the applicability of the Committee's actions to all Government agencies was

interpreted by the contractor as having the potential to produce the same result.

The contractor also expressed concerns that the Government would be harmed by having to pay more than a competitively bid price for the garments. Another objection raised by the contractor involved the impact on its operations of a previous Committee decision to add a different item to the Procurement List.

The Committee recognizes that if the contractor's current Government customer decides in the future to purchase the items being developed by the Marine Corps instead of the underwear it is now procuring and the commenting firm is still the current contractor, the circumstances should be considered by the Committee. Specifically, the Committee would assess the impact of its action on the commenting firm.

Accordingly, the Committee has formally advised the contractor that if the Marine Corps underwear replaces the existing garments in the future, such an assessment will take place. At that time, the Committee would consider all aspects of such impact, including effects on employees, plant and equipment investments, other business relationships, and previous impact. In the case of the last factor, the Committee observed that the commenting firm had not been the current contractor for any items previously added to the Procurement List and, thus, under Committee procedures, would not be considered to have been impacted by prior Committee action.

Notwithstanding its commitment to monitor future impacts, the Committee noted that representatives of both the Marine Corps and the current military customer have indicated that there are no plans for the Marine Corps underwear to replace the garments currently being supplied by the commenting contractor.

With respect to the commenter's interpretation of the Committee regulation regarding purchasing similar items, the Committee does not interpret the regulation in the way suggested by the commenter. The regulation in question only applies to similar items not purchased by the Government in recent years. Therefore, the regulation would not cause the contractor to lose purchases by its present customer. The other regulation commented upon by the contractor would mean, as the commenter suggested, that in the event the contractor's current customer decided to switch to the Marine Corps garments, the customer would be expected to purchase the garments from the nonprofit agency designated by the

Committee. However, as noted above, because such an action could impact upon the commenting firm, the Committee will—if such a switch is made—consider the appropriateness of retaining the total Marine Corps requirement on the Procurement List.

In response to the comments about the price the Government will pay if the underwear is added to the Procurement List, the Committee noted that it is required to establish a fair market price for such items and to revise that price over time. Such a price has been established in this case and the nonprofit agency has agreed to supply the Marine Corps at that price.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

- 1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.
- 2. The action does not appear to have a severe economic impact on current contractors for the commodities.
- 3. The action will result in authorizing small entities to furnish the commodities to the Government.
- 4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Procurement List:

Drawers and Undershirt, Chemical Protective 8415-00-NSH-0091 Size—32 8415-00-NSH-0092 Size—34 8415-00-NSH-0093 Size—36 8415-00-NSH-0094 Size—38 8415-00-NSH-0095 Size—40 8415-00-NSH-0096 Size—42 8415-00-NSH-0097 Size—44 8415-00-NSH-0099 Size—46 8415-00-NSH-0099 Size—48 8415-00-NSH-0100 Size—26 8415-00-NSH-0101 Size—26 8415-00-NSH-0102 Size—30 8415-00-NSH-0103 Size—30 8415-00-NSH-0103 Size—30

8415-00-NSH-0104 Size-34