

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 8, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

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 services to the Government.
2. The action does not appear to have a severe economic impact on current contractors for the services.
3. The action will result in authorizing small entities to furnish the services 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 services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Administrative Services, Social Security Administration, Great Lakes Program Service Center, Chicago, Illinois, NPA: Lester & Rosalie ANIXTER CENTER, Chicago, Illinois

Grounds Maintenance, Base Command, Building 2750, Burger King, Building 6006, Edwards Air Force Base, California, NPA: Desert Haven Enterprises, Inc., Lancaster, California.

Beverly L. Milkman,
Executive Director.

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Procurement List; Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: January 8, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603-7740.

SUPPLEMENTARY INFORMATION: On September 29, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (60 F.R. 50558) of proposed addition to the Procurement List.

Comments were received from the current contractor for this service before the notice of proposed rulemaking was published in the Federal Register. Some of these comments were transmitted to the Committee by a Member of Congress. The Committee initially was asked to add janitorial services at a group of buildings to the Procurement List, but the request was revised to include only the Ariel Rios Building to minimize the impact on the current contractor.

Despite the limitation, the contractor continued to claim that the proposed addition would have a severe impact on the company. The contractor claimed that the percentage of contract revenues it would lose on its award for the remaining buildings exceeds a "rule of thumb" percentage beyond which the Committee will consider impact to be severe. The contractor also indicated that it has been a continuous supplier of building maintenance at various Government sites and is thus more dependent on such sales to the Government. The contractor claimed that the remaining buildings in the

group would soon be closing for extensive renovations, so the limitation of the Procurement List addition to the one building would not lessen the impact on the contractor.

The Committee's criteria on permissible impact on a current contractor for a Procurement List addition, at 41 CFR 51-2.4(a)(4), look at the impact on the total sales of a company, not the percentage of revenue for a particular contract. The Committee has no "rule of thumb" for total sales percentage, as impact determinations are made on the facts of each situation. In this situation, the percentage of sales which the contractor will lose is well below the percentage cited as the "rule of thumb" level and, even when consideration is given to the contractor's dependence on Government sales, does not reach a level which would be considered severe adverse impact. In addition, the contracting activity has informed the Committee that the other two buildings in the group will not close for renovation until April and December 1997, respectively, later than the contractor contended, which should give the contractor ample time to develop other business to replace business temporarily lost to the renovations.

The contractor also claimed that addition of the services at the Ariel Rios Building does not meet the legislative intent of the Committee's statute, the Javits-Wagner-O'Day (JWOD) Act, 41 U.S.C. 46-48c, in regard to the labor operations to be performed. According to the contractor, the JWOD Act requires that 75 percent of the total labor operations to be performed in providing these services must be done by people with a severe disability.

The contractor has misconstrued the labor requirement in the JWOD Act. In order to qualify for participation in the JWOD Program, a nonprofit agency employing people with severe disabilities must employ such people for not less than 75 percent of the overall total of direct labor performed on commodities and services which the nonprofit agency provides, whether or not these commodities or services are provided to the Government under the JWOD Program. 41 U.S.C. 48b(4)(C). There is no statutory requirement for a specific percentage of direct labor on a JWOD contract, although it is anticipated that the designated nonprofit agency performing the services at the Ariel Rios Building will reach a 75 percent disabled direct labor level on that contract. Addition of these services to the Procurement List will thus create substantial work for people with disabilities, and is not a "front" for