

FINAL MINUTES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

NISH Conference Gaylord Texan Grapevine, TX

Monday, April 30, 2007
3:15 – 5:15 pm

Mr. Andrew Houghton, Committee Chairperson, called the meeting to order at 3:25 pm. In accordance with Committee practice, he asked attendees to introduce themselves. Mr. Houghton welcomed all attendees to the meeting and passed out new AbilityOne pins.

I. Awards Presentations

Mr. Houghton announced the four recipients of the Outstanding Contribution Award. The award winners are: Arvetta Edens, a Contract Specialist at Little Rock Air Force Base; John Elliott, a Supervisory Contract Specialist at Scott Air Force Base; Leslie Strand, a Lead Contract Specialist and Contracting Officer at Elmendorf Air Force Base and Lt. Col. Roger Westermeyer, the Commander of the 55th Contracting Squadron at Offutt Air Force Base. Both Ms. Strand and Lt. Col. Westermeyer were present to receive accolades and plaques from Mr. Houghton.

II. Consideration of Minutes – March 8, 2007

There were not changes to the March 8, 2007 minutes. Mr. Robert Kelly, Private Citizen, made a motion that the minutes be accepted. His motion received a second from Mr. James Omgig, Private Citizen and were adopted by unanimous vote.

III. Status of Accountability Rule

Mr. Leon Wilson, Executive Director stated that the Committee's proposed rulemaking on Accountability Standards had been submitted to the Office of Management and Budget (OMB). He stated that progress was being made in answering questions, and that once OMB makes their suggestions for changes, the Committee will put the proposed rulemaking out in the Federal Register for public comment. The Committee will then decide if the next steps will include further review on the proposed rule based on the comments received or publication in the Federal Register for final comment. OMB will make a decision by June 4, 2007 on whether or not the proposed rule can be published in the Federal Register.

IV. Litigation Update

Mr. John Heyer, General Counsel, gave an update on the Committee's current litigation. The Committee is currently involved in three lawsuits. The first is with Platte River Industries over an Impasse appeal at the Cesar Chavez Building in Denver, Colorado. Platte River is contesting the decision. There will be a one-month temporary contract to continue services during the litigation.

The second is with ARC Diversified, which last year went into bankruptcy after a pricing determination by the Committee on one of its products, export vegetable oil. The Committee, the purchasing office at the U.S. Department of Agriculture, and the U.S. Agency for International Development, which uses the oil in food aid programs, agreed to a six-month temporary pricing arrangement during which the Committee will conduct a new price impasse procedure.

The third lawsuit was filed by Nutech Laundry and Textiles, Inc., over laundry service at the Bethesda Naval Hospital. Mr. Heyer said that the Committee had agreed to a one-year purchase exception during which the Committee will reconsider this addition to the Procurement List. By April 25th the Committee agreed to reconsider which will be done in an executive session at the end of this meeting, followed by a vote letter.

V. Update on Actions from General Accountability Office (GAO) Report

Mr. Barry Lineback, Committee staff, reported on GAO Report 07-236 – Federal Disability Assistance Stronger Federal Oversight Could Help Assure Multiple Programs' Accountability, dated January 2007. The GAO was tasked to review four employment-related programs including performance goals and measures and oversight procedures. The AbilityOne Program was one of the four reviewed. The GAO found that performance measures were not clearly defined or were difficult to measure. They also found that there were uneven applications and problems with the compliance reviews of the AbilityOne's affiliated nonprofit agencies. Moreover, better oversight of the central nonprofit agencies (CNAs) was needed. Additionally, the definition of severe disability is not clearly defined and is open to interpretation. Mr. Lineback said that GAO recommended that the AbilityOne Program undergo strategic planning to assess goals and measures and establish compliance with laws and regulations regarding the CNAs. Mr. Lineback went through the next steps that the Committee will take including conducting strategic planning conferences, developing data collection methods, finalizing evaluation standards, changing regulations and emphasizing the importance of program integrity.

Mr. Houghton asked Mr. Lineback to tell him about the normal response requirements to a GAO Report and the appropriate actions that should be taken. Mr. Lineback said that GAO does not require a formal response, but the report should be taken seriously. Mr. Wilson said that the GAO Report is a report to Congress and that the Committee should be prepared in case anyone such as Congressional staffers or the administration make reference to the report. He said the Committee should be able to give a

comprehensive and fluid reply and provide a plan of action whether there is concurrence or nonconcurrence of GAO's recommendations. The Committee has already received questions from OMB regarding the GAO Report recommendations and findings.

Mr. Wilson said that the Committee will address some of the issues during the next strategic planning sessions. Mr. Wilson gave kudos to Jim Gibbons, President and CEO, National Industries for the Blind (NIB), for his comments made during the last strategic plan stressing that there are too many measurements. Mr. Houghton asked if there was any difficulty collecting the data. Mr. Wilson responded that there are some difficulties because there are so many data points and the measurements should be refined to four or five points. Mr. Walters asked if there was reference to the balanced scorecard. He said a mechanism could be set up to use the balanced scorecard as a cost benefit having the top goals on top. Mr. Walters agreed with Mr. Wilson's assessment that there should be a cost benefit to collecting all this information surrounding the goals. Mr. Omgig asked Mr. Walters if he could describe the balanced scorecard in layman's terms. Mr. Walters stated that the scorecard is similar to a traffic stoplight with the colors red, yellow and green. Mr. Omgig asked if there would be an opportunity to describe the balance scorecard in more detail. Mr. Walters volunteered to do a presentation at the next Committee meeting. Mr. Omgig said that the CNAs should be involved in the process. Mr. Rowe commented that some of the members who have worked in other federal agencies are familiar with the balanced scorecard approach.

Mr. Wilson said that GAO did not infer that there was any wrongdoing, but that there were issues with the compliance program. Mr. Gibbons said because the NPAs pay the CNAs, there is a conflict of interest and outside parties see it as such. Mr. Wilson stated that the Committee needed to assume the compliance and investigation responsibilities so that outside parties would not be concerned about conflict of interests. He said the CNAs' strength was in staff assistance and technical training and that he does not see their role in these areas changing, although some changes to the Committee's regulations will be needed. He said that the Committee staff and the CNAs will continue to work together and keep each other informed.

Mr. Houghton referenced a letter sent by Mr. Wilson to the CNAs that stated that the CNAs would no longer be involved in inspecting or investigating the affiliated nonprofit agencies. Mr. Houghton noted that inspections and investigations were now by regulation delegated to the CNAs, and if the Committee is now assuming those duties, Mr. Houghton wanted to know how the Committee could do so without changing or modifying the regulations first. He also stated that the Governance subcommittee, headed by Dr. Anthony, should make this issue their number one priority. Mr. Chamberlin made a comment about the overall roles and responsibilities of the CNAs versus the Committee. Mr. Houghton said the Finance and Information Management subcommittee is working on defining the overall roles as their number one priority.

Mr. Wilson stated that his letter to the CNAs pertained to compliance inspections and investigations of the affiliated nonprofit agencies by the CNAs, and it was tailored to reinforce the Executive Director's comments to the GAO that the Committee was taking

aggressive action to eliminate even the appearance of conflict of interests between the CNAs and their affiliated nonprofit agencies. He said there is concurrence with the CNAs that the compliance inspections and investigations of the nonprofit agencies should be taken over by the Committee, and he believed that these duties were inherently governmental and that the GAO Report supports this view.

Mr. Wilson went on to say that because of the urgency of the matter with CNA concurrence that the regulations should not prevent the Committee from taking immediate responsibility.

Mr. Houghton questioned whether or no that the tasks were inherently governmental asked if that was Mr. Wilson's personal opinion or the interpretation of the GAO Report. Mr. Wilson stated that he would counsel the Committee that the tasks are inherently governmental. Mr. Houghton said that the Governance Subcommittee should determine what approach to take, and Mr. Wilson concurred.

VI. Briefing on Pricing Practices

Mr. Lou Bartalot, Committee staff, reported on the development of PR-2 and PR-3. He said the recently released updates have generated discussion in the AbilityOne community over what has been characterized as the extensive nature of the changes in these memos and the negative impact on the nonprofits. Mr. Bartalot provided an explanation of how the Committee has changed its pricing procedures since 1995 beginning with some background on the fair market price and what the Act and regulations state. He then went over the procedure that the Committee took in the late 90's to evaluate and revise the procedures and finally compared the latest version of PR-2 and PR-3 with what the Committee had voted to adopt in 1997 on products and in 1999 on services.

Mr. Houghton asked why some agencies are better capable than others. Mr. Bartalot responded that there may be a better management team, a better understanding of pricing and the severity of individuals disabilities doing the work could all contribute to why some agencies are better than others.

Mr. Houghton asked how we implemented the changes and Mr. Bartalot answered that on products we simply issued the memo which included a five-year phase-in. On services we went through an introduction period including a session at the NISH Conference in 2001 and training classes conducted by NISH in all of its regions. Mr. Chamberlin pointed out that this provides rationale for the original studies. He said PR-3 had such a potential impact on the process NISH followed.

Mr. Houghton said this seems like an evolutionary process. He asked whether the program has been aware of it since it was done in the 90's. Mr. Rowe responded that since he has been working for the last two years (hatchet comment) for not releasing soon enough. Two parties cannot agree on a price asked to come to Committee to determine fair market price – staff reconsideration.

VII. Briefing on the Price Impasse Process

Mr. Wilson stated that the Impasse process occurs when two parties cannot agree on a price and are asked to come to the Committee for a fair market price determination. Mr. Houghton asked the staff to prepare a presentation so that the new members could get a better understanding of the process and its history. Mr. Wilson commented that 99.9 percent of impasses are on renegotiated contracts.

Ms. Patricia Briscoe, Committee staff, gave a presentation on the AbilityOne Price and Price Related Impasse Process. First, she gave the Committee's responsibilities for pricing as determined by regulation. Next, she gave background information on the process. Ms. Briscoe described Pricing Memorandum Number 19 which changed who can declare an impasse. She stated who can declare an impasse and how a business case is submitted. She then reviewed the procedures for review and appeal by the Committee staff. Ms. Briscoe gave a breakdown of the number of impasses and their outcomes for the last three years.

There was some discussion about Platte River Industries and a recent impasse that was declared concerning the Cesar Chavez Building in Denver, Colorado.

Ms. Kathleen James, Air Force, asked how the other party is notified when one party submits a case. Ms. Briscoe responded that the declarant must notify the other party. She said the impasse officially begins when all parties are notified. The new PR-19 will bring more flexibility to timelines. Mr. Houghton asked what role the CNAs play in assisting the nonprofit agency to prepare its business case. Mr. Chamberlin said that NISH works with the CRP. Mr. Rowe said that PR-19 states that the CNA can be a party if designated by the CRP. Mr. Omgvig questioned whether the CNAs are involved before impasse is reached. Mr. Gibbons responded that the CNAs are involved and usually aware when an impasse comes up. Mr. Omgvig also asked if there are many cases like the agency from New York when the price was lowered by the Contracting Officer. Mr. Chamberlin said it happens more often than it used to. Mr. Wilson reminded everyone that the Committee has the statutory authority to set the price and make the final decision. Mr. Omgvig asked if Platte River is the first agency to offer a court challenge and Mr. Heyer responded yes.

VIII. Subcommittee Reports

Planning and Evaluation (P&E)

Mr. James Omgvig, Chair of the Planning and Evaluation subcommittee, reported on two items the subcommittee has been focusing on. First, Mr. Omgvig reported on the progress of the manual that Lou Bartalot and Steve Maguire have been trying to finalize. The manual will provide better guidance on how to establish if someone with a severe disability is competitively employable.

Mr. Bartalot said he hopes to release the manual by the end of May. Mr. Omgig commended Mr. Bartalot and Mr. Maguire for their hard work on the manual and commented that NISH is already using the manual with guidance from the Committee staff.

Secondly, Mr. Omgig reported on the AbilityOne Disability Leadership Forums. The last forum was held on February 22nd, and it was targeted to key Administration officials responsible for disability programs. The last forum may be postponed until June.

Governance

Dr. Ed Anthony, Department of Education, accepted the position as Chair of the Governance Subcommittee. He said he is working on reconstituting the group and their primary focus will be the Accountability Standards. He also mentioned that they will work on the GAO Compliance recommendations. He said that Kathleen James, Air Force, has agreed to join the subcommittee and he invited more members to participate.

Finance & Information Management

Mr. Tony Poleo, DLA representative has volunteered to chair the Finance & Information Management Subcommittee. He said he will be working on reconstituting the subcommittee.

Business Development

Mr. Felipe Mendoza, Chair of the Business Development Subcommittee, reported on their activities. The subcommittee met on March 8th to discuss the AbilityOne logo. All voting members approved the logo, which was introduced at the Opening Session of the conference. He also said that several members of the subcommittee participated in Crisis Communication and Media Training in April.

Ad Hoc

Mr. Leon Wilson, Executive Director, said he met with Mr. Chamberlin and Mr. Gibbons about legislative issues. The subcommittee will meet next month to review information for the Annual Report.

VI. Executive Director's Comments

Mr. Leon Wilson, Executive Director, reminded everyone that there would not be another full Committee meeting until July 12th. He reported that the Committee staff has undergone some reorganization. He announced that Kimberly Zeich would be overseeing Operations and Lou Bartalot would be concentrating on Compliance investigations and analysis.

Next, Mr. Wilson said there would be vote letters distributed to close the loop on the agencies that appeared before the Committee because of ratio problems. He also said that ReadyOne's President and CEO, Joe Wardy has resigned and an interim CEO would be in charge. Mr. Bartalot will make a trip to El Paso to evaluate ReadyOne following the NISH Conference.

VII. CNA Reports

NISH

Mr. Robert Chamberlin, President/CEO, NISH thanked everyone for attending the conference. He said it was the highest attendance ever. He encouraged everyone to attend the Awards Banquet on Tuesday night.

NIB

Mr. James Gibbons, President & CEO, National Industries for the Blind (NIB), spoke briefly about the employment growth which is up 1.4 percent and although the market is soft, sales are trending in a positive direction. The TGR/BGR process is underway and NIB expects to add a variety of projects to the P/L in FY '07.

Mr. Houghton commended Mr. Chamberlin and his staff on a great conference and he applauded the members of the NIB Executive Board and the agencies for their attendance and support. After determining there was no further business, Mr. Houghton adjourned the meeting at 5:20 pm and went into an Executive Session.

List of Attendees – April 30, 2007

Committee Members

Ed Anthony	Department of Education
James House	Department of Agriculture (via teleconference)
Andrew Houghton	Private Citizen
Robert Kelly	Private Citizen
Felipe Mendoza	General Services Administration
James Omvig	Private Citizen
J. Anthony Poleo	Defense Logistics Agency

Nominees

Kathleen James	Department of the Air Force
Edward W. Walters	Department of the Army

Committee Staff

Lou Bartalot
Patricia Briscoe
Emily Covey
Margaret Hansen
Robert Hartt
John Heyer
Stephanie Lesko
Barry Lineback
Steve Maguire
Connie Mehr
Angela Phifer
Patrick Rowe
Leon Wilson
Kimberly Zeich

NISH

Mearl Balmer
Robert Chamberlin
Victor Dennis
Dennis Fields
Nancyellen Gentile
Elizabeth Goodman
Hal Goulding
Lynne Harris
Bill Jefferson
Bill Payne
Chris Pero
Michelle Rondenet
Bob Sullivan
Larissa Timmerberg

List of Attendees – April 30, 2007 (Continued)

Barbara Van Allen
Rick Van Hoose
Becky Wright Brizee

NISH Board

Gregg Bender
Elmer Cerano
Sally Cerny
William Coleman
Susan Fonfa/Fedcap
Fred Frese
Mary Ann Grunwalt
Ed Guthrie
Dennis Popp

NIB

Steve Brice
James Gibbons
Kevin Lynch
Kim Zimmer

NIB Board

William Johnson
Jim Kutsch
John Peoples

Government Representatives/Staffers

Aaron Collmann	General Services Administration
Eduardo Coronel	Department of Labor
Sandra Hallmark	Department of Veterans Affairs
Dorothy Hindman	Department of the Army
Kathleen James	Department of the Air Force
Mark Opilla	Department of the Navy
Nancy Skaggs	Department of Labor

Others

Bob Aarbisen	KCARC
Jessica Abrahams	McKenna, Long, and Aldridge
Samira Askarova	Goodwill International
Dave Barringer	Goodwill Industries International
Patricia Black	Goodwill Industries of San Antonio
Roland Blahink	
Ellen Brown	Goodwill Industries International
Mike Carney	KCARC

Gerald Davis	Goodwill Central Texas
Paul Denett	OMB
Dennis Dudek	DSCP
Janice Frey-Angel	Melwood
Richard Gallaher	Melwood
Adele Gasparro	ORC Industries
Richard Gilmartin	Lakeview Center
Leonard Goodman	ReadyOne
J. Griffey	RLCB
Kasia Grzelkowi	The ARC of VA Peninsula
Mark Hall	ServiceSource, Inc.
Jim Hughes	GA Industries for the Blind
Sherr Scyphers Hungate	Goodwill Industries of South Florida, Inc.
George Kessinger	Goodwill Industries
Shoule Kessinger	Private Citizen
Anne Klug	Alliance, Inc.
Don Landum	Goodwill of SE Texas
A. Luttrell	Goodwill Miami Valley
Cindy Maltby	OMB
Catherine Meloy	Goodwill of Greater Washington
Linda Merrill	Envision
John Murphy	Portland Rehabilitation Center
Marion Nelson	Fairchild AFB, WA
Sharon Omvig	Private Citizen
John Owen	Goodwill Industries of South Texas
Jim Padgette	Alliance, Inc.
Dennis Pastrana	Goodwill Industries of Southern Florida
Stephen Patterson	SABVI/NAEPB
Steve Perdue	Grand Traverse Ind.
Malcolm Randolph	Goodwill
Chuck Richman	SOC Enterprises
Becky Roberts	Catoctin Consulting
David Roberts	ACCSES/DSPA
Guinn Rogers	Goodwill El Paso
Don Smith	Alabama Goodwill Industries
Margo Thomas	Goodwill of the Chesapeake
Woody VanValkenburgh	Rappahannock Goodwill
Evelyne Villines	Private Citizen
Roger Westermeyer	Air Force
Lauren White	Oklahoma League for the Blind/NAEPB
Michael Winckler	Goodwill