



January 23, 2006

Committee for Purchase from People Who Are Blind or Severely Disabled
1421 Jefferson Davis Hwy., Suite 10800
Arlington, VA
22202-3259

Dear Committee Staff and Members,

Thank you for the opportunity to write comments on issues we consider critical to the continued success of the JWOD program and the ability of non-profit agencies to meet the needs of persons with disabilities. Peckham, Inc. is a private non-profit agency located in Lansing, MI. We are one of the largest NPAs participating in the JWOD program. The JWOD program provides jobs for over 800 people with severe disabilities served through Peckham. Through our commercial and state contracts, an additional 600 persons with severe disabilities are served.

We support and appreciate the Committee's goal to ensure that the JWOD program is protected from misuse and that the benefit of the program does not unduly inure to NPA employees or management entities.

In addressing questions under the first heading of Good Governance Practices, we believe that the best way to address this issue is through 3rd party accreditation by agencies such as CARF, JACHO or some other acceptable accrediting body. We believe that the Committee's concerns can be better addressed through requiring 3rd party accreditation rather than trying to set their own governance standards. While the various accrediting bodies may have different governance standards, as long as in whole or in part, it promotes best practices that strengthen and support good governance, the specific variations would not impact the Committee's goals. This would allow NPAs a choice in which accrediting bodies' best meet their particular situation. This could be accomplished by establishing a list of acceptable 3rd party accreditations that would fulfill the Committee's goal. Once accredited, this should be accepted by the Committee without further review.

In regard to the question on enforcement mechanisms, we believe that the current remedies spelled out in section 51.4. of the JWOD Act are appropriate and can be applied to any new qualification criteria. We do not believe that additional remedies would be needed.

In concept and in practice, Peckham supports governance standards that provide a strong foundation to support the mission of the NPA, helps ensure that the employment and training needs of people with disabilities are being met and maintains the community's confidence in the integrity of the NPA. However, we believe this could best be accomplished by the Committee implementing a new requirement for 3rd party

accreditation from a recognized accrediting body, rather than enacting or stipulating their own governance standards.

Under the heading, 'Effect of Executive Compensation on Fair Market Price Determination' our comments are as follows:

As a matter of logic, questions 1, 2, 3, and 4 as posed all have the same answer and that is that any amount, even 1 penny of compensation, would impact the fair market price of a product or service when all or a portion of the compensation is allocated to the product or service. Therefore, logic would tell us there is no ceiling or floor to which compensation would or would not impact fair market price. At any amount, it impacts fair market price. We assume that what the committee is trying to determine is the extent to which some amount of CEO compensation leads the government into paying a higher price to purchase the good or service than they would have to pay under market conditions. However, due to the logical fallacies noted above, we don't believe this determination can be made in this fashion. One possible way the Committee could explore is simply setting a cap on the compensation that can be charged to JWOD contracts in total. Previously the Committee proposed to set an overall cap on CEO compensation that usurped the right and authority of the NPA board. We would suggest that instead, the Committee can simply limit the total dollar value of any one employee's compensation that can be charged to JWOD contracts in total. We have seen precedents for this in state contracts. As an example, the annual certification could stipulate that for employees earning more than \$207,000 per year, the portion of time charged to JWOD contracts will be limited to the portion that is relative to a percentage based on a maximum of \$207,000. This means in effect, that if someone made \$220,000 per year and 10 percent of their time was spent on JWOD contracts, than the most they could charge is 20,700, rather than the full cost of \$22,000. This mechanism would leave the NPA board with the authority to continue to set CEO compensation but would protect the government's interest in getting a fair market price. We do not believe that it is the Committee's role to overrule, second guess or dictate to NPA Boards what the total amount of any employee's compensation should be.

As regard to question 5 on the relationship between compensation for line workers and highly compensated individuals, we again urge the Committee to not adopt standards of acceptable differences. The mission of agencies like Peckham is to work with those individuals who have the most severe disabilities, who have not been successful in competitive employment and require support and accommodation in order to earn any income. At Peckham less than 20% of our workforce is paid a deviated wage. If we were to pay everyone at the current federal minimum wage regardless of productivity, we would incur a cost of approximately 1.2 million dollars per year with no resulting increase in products produced or revenue in which to pay the workers. Peckham would be forced to lay off those workers whose productivity results in less than minimum wage. Attempts to set acceptable standards between the lowest paid worker and the highest paid employees would result in a negative impact to those who are most severely impaired. This would be a devastating blow to so many who currently benefit from the DOL Special Wage Certificate.

In the supplementary information given in the Federal Register, the Committee asserts their role and authority in ensuring that the fair market price charged to the customer is reasonable and appropriate. Question 6 seems to go beyond the stated intention and goal, and appears to be based on a desire to just simply regulate compensation, regardless. We would strongly oppose this attempt.

In closing, we thank the Committee for soliciting input from those who would be affected by any new regulations. We understand that the Committee's sole interest is in protecting the JWOD program and ensuring that the thousands of people with severe disabilities who are served by the program will continue to benefit. This is a goal that all NPA's share and we are eager to work with the Committee in a collaborative effort to see our mutual goal achieved. Our NPA community is made up of agencies and staff that are mission-driven, dedicated and committed to ensuring that people with disabilities are able to achieve success. We hire the best and brightest, we focus our energies on our mission, we advocate for greater opportunities for those we serve and we invest in their future. We would like to think that the Committee values those efforts and values the collective synergy, intellect, wisdom, integrity and commitment represented by the NPA community. We would urge the Committee to utilize the strengths and talents represented in this community and among our peers to form an ad hoc task force to work through the areas of concern and suggest changes in regulations that would actually lead to further improvement of the program in a proactive rather than reactive fashion.

Thank you for your consideration of these comments, if you have any questions, I would be happy to provide further information.

Sincerely,

Mitchell Tomlinson, CEO