



**UNITED STATES DEPARTMENT OF EDUCATION**  
OFFICE OF INSPECTOR GENERAL

July 31, 2007

Control Number  
ED-OIG/A19H0001

John H. Hager  
Assistant Secretary  
Office of Special Education and Rehabilitative Services  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Mr. Hager:

This **Final Report**, entitled *Management Procedures Under the Randolph-Sheppard Act and Javits-Wagner-O'Day Act*, presents the results of our review. The purpose of the inspection was to review the Department of Education's (Department) oversight of the Randolph-Sheppard and Javits-Wagner-O'Day (JWOD) programs.

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## **BACKGROUND**

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The Randolph-Sheppard program provides blind persons with opportunities for remunerative employment and self-support through the operation of vending facilities on federal and other properties. The Randolph-Sheppard Act gives priority to blind persons in the operation of vending facilities on Federal property, to include cafeterias, snack bars, and automatic vending machines. The program is voluntary, with 49 of 50 states opting to operate the program.

Under the Randolph-Sheppard program, state licensing agencies (SLAs) recruit, train, license and place blind individuals as operators of these vending facilities. By law, SLAs are agencies providing vocational rehabilitation (VR) services to individuals who are blind in each state. These agencies receive grant funds for VR services from the Department. The Rehabilitation Services Administration (RSA) within the Office of Special Education and Rehabilitative Services (OSERS) administers the program.

The Javits-Wagner-O'Day (JWOD) program, in part, provides employment opportunities to individuals who are blind or have other severe disabilities. The Federal Government purchases commodities and services from nonprofit agencies employing such individuals through the JWOD program. The Committee for Purchase From People Who Are Blind or Severely Disabled (CFP) is an independent Federal agency that administers the JWOD program. It is comprised of 15 Presidentially-appointed members— 11 represent Governmental agencies; 4 are private citizens. The Department is represented on the CFP.

Section 856(c) of the *John Warner National Defense Authorization Act for Fiscal Year 2007* required the Inspectors General of the Department of Defense (DoD-OIG) and the Department of Education (ED-OIG) to jointly review the management procedures under both the Randolph-Sheppard Act and the JWOD Act. This report includes the results of the ED-OIG review only. DOD-OIG will be issuing a separate report at a later date that will provide the results of its management review of the Department of Defense's (DOD) implementation of the two Acts with regard to military facilities.

On January 26, 2007, the Government Accountability Office (GAO) issued a report entitled, "Federal Disability Assistance: Stronger Federal Oversight Could Help Assure Multiple Programs' Accountability." GAO reviewed four employment-related programs aimed at helping people with disabilities obtain jobs, including the Randolph-Sheppard and JWOD programs. Specifically, GAO assessed the extent to which (1) performance goals and measures have been established for these programs and (2) the agencies responsible have established adequate procedures for overseeing program implementation and assuring laws and regulations are followed. GAO found that no performance goals or measures currently exist for the Randolph-Sheppard program, and the Department conducted little oversight of the program. As a result, GAO recommended that the Department establish goals for the Randolph-Sheppard program and strengthen program monitoring and guidance.

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## INSPECTION RESULTS

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We determined GAO recently reviewed the Department's oversight of the Randolph-Sheppard program.<sup>1</sup> As such, we considered the duplication of effort when planning our inspection in accordance with the President's Council on Integrity and Efficiency (PCIE) Quality Standards for Inspections (2005).<sup>2</sup> In addition, we determined the Department is not responsible for the administration of the JWOD program; therefore, we did not review and cannot comment on that program's management procedures.

Overall, our review of management procedures under the Randolph-Sheppard Act did not identify concerns beyond those recently reported by GAO. To address these concerns, we found the Department is developing goals and objectives to improve the program's management, accountability, and performance. In addition, we found the Department is currently engaged in rulemaking to clarify program requirements in the key area of military food service contracting. The Department has been working with DoD and the CFP to clarify how the priority afforded blind individuals under the Randolph-Sheppard Act must be applied to the operation of DoD cafeterias. Because our results were similar to those reported by GAO, we have no new recommendations for the Department.

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<sup>1</sup> GAO-07-236: "Federal Disability Assistance: Stronger Federal Oversight Could Help Assure Multiple Programs' Accountability," issued January 2007.

<sup>2</sup> Page 12 of the PCIE Quality Standards for Inspections (2005) states the standard for inspection planning includes coordinating inspection work and avoiding duplication.

In its response to the draft report, OSERS concurred with the finding. The complete text of the response is included as an attachment to this report.

## **FINDING- Improvements Are Needed in Management Procedures Under the Randolph-Sheppard Act**

### Lack of Performance Goals for the Randolph-Sheppard Program

The GAO report found the Department did not have Government Performance Results Act goals for the Randolph-Sheppard program, and neither the Randolph-Sheppard Act nor its implementing regulations require them. In its report, GAO stated that according to Department officials, no formal performance goals currently exist, but they were under development.

During our review the Department provided an internal workplan, which describes the goals and objectives it is developing to improve the management, accountability, and performance of the Randolph-Sheppard program. These goals and objectives include: demonstrating efficient and effective administration of the Randolph-Sheppard Act; determining the cost, benefits and effectiveness of the Randolph-Sheppard program; obtaining detailed information on military food service contracts; and engaging in rulemaking to clarify program requirements in the area of military food services. The Department has obtained input from stakeholder groups to assist with determining performance goals and outcome measures, and the state data collection forms will be revised to collect information necessary to support and measure the program goals established.

### Limited Oversight of the Randolph-Sheppard Program

The GAO report found the Department provided little oversight of the Randolph-Sheppard program. Specifically, GAO determined that the Department had no formal procedures for evaluating state programs and had performed few on-site monitoring reviews of SLAs in recent years.

In response to the GAO report, the Department stated it would develop an annual monitoring plan, to include on-site monitoring of a minimum of four programs per year. Randolph-Sheppard program monitoring will be coordinated with activities to monitor VR programs. At the time of our review, the Department was completing final monitoring reports for four states and the District of Columbia. Department staff informed us they had previously tried to perform four to five site visits per year, but due to a lack of staff and funds, the site visits had not been a priority.

GAO also reported the Department relied primarily on self-reported state data for its monitoring of the Randolph-Sheppard program and did not test the accuracy or routinely analyze the data it collects. As a result, the GAO report concluded the Department could not assess trends in performance, identify possible best practices, or help states that may need assistance.

Department staff informed us that in the past, a grantee of the Department was collecting and reporting on the Randolph-Sheppard program data submitted by the states. The Department informed us that it learned the grantee's data was incomplete and did not include information on large contracts, and therefore it began collecting the information in-house. Department staff said

a comprehensive report has been compiled for the FY 2003 data, and it has the data for FYs 2004 through 2006. However, the Department has not yet cleared the FY 2003 report for release.

GAO also reported that the Department had not provided clear guidance to states on emerging issues that could have nationwide implications. Instead, GAO said the Department responded to individual state concerns, which results in states having different policies.

During our review, one area we noted where states had differing policies was with regard to vendor eligibility and training. We reviewed the websites of states with prime contracts for military dining facilities and found disparity among state requirements. For example, not all states listed the same requirements for a high school diploma or equivalent, minimum-age, or minimum reading and math level. We also noted differences among the states with regard to the length of vendor training. One state's website stated the training program was 12-weeks, whereas another state's program was approximately 30-weeks.

States are not currently required to have identical policies and requirements for vendors. The regulations implementing the Randolph-Sheppard Act allow each state to establish and maintain objective criteria for licensing qualified applicants. According to *Code of Federal Regulations* (CFR) Title 34, section 395.7, (2006) "The issuance and condition of licenses," the criteria must include provisions to assure that licenses will be given only to individuals who are determined by the SLA to be: 1) blind; 2) a U.S. citizen; and 3) certified by the state VR agency as qualified to operate a vending facility. In addition, the regulations do not specify the length of training that must be provided to blind individuals. According to 34 CFR 395.11, "Training program for blind individuals," the SLA "shall ensure that effective programs of vocational and other training services...shall be provided to blind individuals as vocational rehabilitation services."

In May 1997, the RSA Commissioner issued training performance standards to the state VR agencies. The standards incorporated the National Restaurant Association's programs that provide the national training and certification requirements for the restaurant industry. The National Automatic Merchandising Association provided input and support through its well-established training program and certification requirements. RSA encouraged their use to facilitate overall program improvement, to reduce the need for training of vendors who move from one state to another, and to promote uniformity in the administration of the program by the states. However, there was no requirement that the standards be adopted in whole or in part.

Department staff stated the true operation of the Randolph-Sheppard program is at the state level, and noted that some states would claim a hardship if RSA imposed new training standards, because it did not offer grants specifically for this purpose. States would likely need to move funds from other VR programs to support more extensive training. Staff also said they believe flexibility is exactly what was desired when the program was created, in part due to states having different regulations with respect to food safety certifications. The training, in theory, is intended to produce the skills perceived necessary to be successful in a particular program.

The Department has been working to improve its efforts to provide clear guidance. On August 29, 2006, the Department, DoD, and CFP submitted a Joint Report to Congress, as required by Section 848 of the *National Defense Authorization Act for FY 2006*. This report provided a joint policy statement for the application of the JWOD Act and Randolph-Sheppard Act to contracts

for the operation and management of military dining facilities. The joint analysis was performed to reach an agreement on issues where there had been long-standing confusion or lack of agreement among parties. The Department is in the process of drafting new regulations to implement the joint policy report and clarify program requirements with regard to military food service facilities. These regulations are currently under review at DoD. DoD has been tasked with drafting complementary regulations.

In addition, the Department plans to issue to SLAs an inventory of policy directives, technical assistance circulars, and other written guidance previously issued by the Department relevant to the Randolph-Sheppard program. Department staff stated policy guidance will also be placed on the ed.gov website, so it will be easily available to program participants, state government agencies, federal procurement officials and property-managing agencies.

### Conclusion

As a result of its findings, GAO recommended that the Secretary of Education provide more effective leadership of the Randolph-Sheppard program by: establishing performance goals; being more proactive in disseminating clear, consistent, and routine guidance; and strengthening monitoring of SLA and Randolph-Sheppard program performance. Because our findings were similar to those of GAO, we have no new recommendations for the Department.

### **OSERS Comments**

In its response to the draft report, OSERS concurred with the finding.

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## **OBJECTIVE, SCOPE, AND METHODOLOGY**

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The objective of our inspection was to review the Department's oversight of the Randolph-Sheppard and JWOD programs. We subsequently determined the Department is not responsible for the administration of the JWOD program; therefore, we did not perform any further review of this program.

To accomplish our objective, we conducted interviews with Department officials to gain an understanding of how the Randolph-Sheppard program is administered and monitored. We reviewed federal regulations that established and implemented the program as well as Department guidance provided to SLAs. We reviewed prior GAO and Congressional reports. We also reviewed documentation maintained by OSERS relating to the Randolph-Sheppard program. This included site visit reports, annual reports, information memoranda, and a technical assistance circular. Further, we reviewed the websites of 25 states identified as having prime contracts for military dining facilities as of September 2005. Of these 25 states, 11 had information on their websites pertaining to vendor eligibility and/or training requirements.

The fieldwork for our inspection was conducted at Department offices in Washington, D.C., during the period December 2006 through March 2007. Our inspection was performed in accordance with PCIE Quality Standards for Inspections.

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## ADMINISTRATIVE MATTERS

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In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

We appreciate the cooperation given us during this review. If you have any questions, please call Michele Weaver-Dugan at (202) 245-6941.

Sincerely,

George A. Rippey /s/  
Acting Assistant Inspector General  
for Audit

Attachment

cc: Edward Anthony, Acting Commissioner, Rehabilitation Services Administration  
Melanie Winston, Audit Liaison Officer



ATTACHMENT

UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

THE ASSISTANT SECRETARY

JUL 13 2007

Michele Weaver-Dugan  
Director, Operations Internal Audit Team  
U.S. Department of Education  
Office of Inspector General  
400 Maryland Avenue, S.W.  
Washington, DC 20202

Dear Ms. Weaver-Dugan:

Thank you for the opportunity to review the Draft Report--Management Procedures Under the Randolph-Sheppard Act and Javits-Wagner-O'Day Act, ED-OIG/A19H0001. We concur with the draft report. My office provided technical and editorial suggestions we understand will be incorporated into the final report.

Your report contains no new recommendations for the Department because of your recognition of the prior related work done by the Government Accountability Office and the management improvements the Office of Special Education and Rehabilitative Services is presently implementing for the Randolph-Sheppard program.

We appreciate your interest in improving the effectiveness of the Department's program providing services to individuals with disabilities.

Sincerely,

John H. Hager

cc: Edward Anthony