

Working Together: Federal Personnel and the Javits-Wagner-O'Day Program

**AbilityOne Handbook
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2000**

**Committee For Purchase From People
Who Are Blind or Severely Disabled, NIB
and NISH**

Executive Summary

The purpose of this Handbook is to assist Federal personnel, particularly those in contracting activities, in working with the Committee for Purchase From People Who Are Blind or Severely Disabled, National Industries for the Blind (NIB) and NISH under the Javits-Wagner-O'Day (JWOD) Program. The JWOD Program is a mandatory source program created by the JWOD Act (41 U.S.C. 46–48c) and implemented through 41 CFR Chapter 51 and FAR Subpart 8.7. Under the JWOD Program, the Federal Government obtains certain needed products and services from nonprofit agencies employing people who are legally blind or have other severe disabilities. Benefits to the Federal Government and the taxpayer include:

- **Quality products and services**
- **On-time delivery**
- **Fair market prices, best value procurement**
- **Paperless acquisition through e-commerce portals such as www.jwod.com, www.gsaadvantage.gov, and those of authorized JWOD distributors**
- **Multiple distribution channels**
- **Reduction of paperwork and pre/post-award costs through long-term contracts**
- **Availability of products that meet the Minimum Recycled Content Standard for Printing and Writing Paper as specified by Executive Order 13101**
- **Central points of contact that solve problems and facilitate action**
- **Reduced Government entitlement payments and increased tax revenues**

The Committee for Purchase From People Who Are Blind or Severely Disabled is responsible for administering the JWOD Program. An independent Federal agency consisting of 15 Presidentially appointed members and a small staff, the “Committee,” determines which products and services are suitable for provision by nonprofit agencies and establishes the fair market prices and, in certain cases, the end item prices to be paid for them by the Federal Government. Technical assistance to match nonprofit agency capabilities with Government requirements is rendered by NIB and NISH, private nonprofit organizations designated by the Committee.

Throughout the “JWOD Process” (Identification, Development, Committee Review/Decision, and Production/Performance), Federal employees play an extremely important role in assuring the success of the Program. This Handbook is intended to provide them with guidance regarding their role as members of the JWOD team. Only through the combined efforts of all team members will the Program achieve its dual goals of meeting Federal procurement needs and generating employment and training opportunities for Americans who are blind or have other severe disabilities.

The JWOD Program is Government at its best. While promoting a desirable social goal, it represents good business for the Federal Government—quality products and services, delivered on time at fair market prices.

The Javits-Wagner-O’Day Act: Historical Perspective

Enacted in 1938, the original Wagner-O’Day Act was designed to promote a desirable socioeconomic goal by using the tremendous purchasing power of the Federal Government as a catalyst in employing people who are blind. The law established the Committee on Purchases of Blind-Made Products and provided long-term work opportunities by mandating that all Federal agencies purchase specified products made in nonprofit agencies employing such individuals.

In 1971, Senator Jacob Javits spearheaded efforts to expand the Act. The resulting Javits-Wagner O’Day (JWOD) Act (41 U.S.C. 46–48c) permitted nonprofit agencies serving people with “other” severe disabilities to participate in the Program and authorized nonprofit agencies to furnish not only products, but also services to the Government.

Under the new Act, the Federal agency charged with administering the JWOD Program was again structured as a Committee. That agency—currently known as the Committee for Purchase From People Who Are Blind or Severely Disabled (Committee)—was charged with deciding which products and services should be purchased by the Federal Government under the JWOD Program; determining the fair market price for those products

and services; revising the prices in accordance with changing market conditions; and establishing rules needed to administer the Program. The Committee has designated two central nonprofit agencies—National Industries for the Blind (NIB) and NISH—to facilitate the distribution of orders among nonprofit agencies participating in the JWOD Program. NIB works with agencies that primarily serve people who are blind, while NISH works with agencies that serve individuals with a range of severe disabilities.

The Program is established by the JWOD Act, with implementing guidance in the Code of Federal Regulations (41 CFR Chapter 51) and the Federal Acquisition Regulations (FAR Subpart 8.7). The Committee maintains an official Procurement List of products and services that are mandated for purchase from nonprofit agencies serving people who are blind or have other severe disabilities. This List is modified almost every week, with changes reported in the Federal Register on Fridays. The appropriate contracting activity is notified whenever a product or service is added to the Procurement List and works with the Committee to ensure that in the future the product or service is purchased from the designated nonprofit agency(ies). The Procurement List is also posted on the JWOD Program’s information website at www.jwod.gov.

JWOD HANDBOOK

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JWOD Program Benefits

To many, the Javits-Wagner-O’Day (JWOD) Program is an example of Government at its best. Although the purpose of the Program is to provide employment and training for people who are blind or have other severe disabilities, benefits of the program extend to the Federal Government and taxpayers as well...

...To the Federal Government

Federal agencies participating in the JWOD Program experience a number of advantages, which collectively make JWOD procurements comparable to those being accomplished through “best value” contracts:

Quality.

Products and services provided under this Program must meet or exceed all applicable specifications or performance standards. Special manufacturing or procedural techniques may be developed to adapt the work environment to meet the needs of individuals who are blind or have other severe disabilities. However, there are no modifications to the Government’s specifications/standards or quality requirements unless it is mutually agreed such modification would lead to higher quality products and services. The relationship between JWOD vendors and the Government is a long-term partnership with a dependable supplier that can work with the Government on both product and process improvements.

On-time delivery.

As with specifications, nonprofit agencies providing products or services under the Act are required to ship/perform in compliance with the Government’s schedule.

Fair market prices.

Prices under the JWOD Program are established by the Committee (usually after negotiations with the contracting activity, the nonprofit agency and NIB/NISH) and are based on recent procurements by the Government or the commercial market for comparable products and services. When appropriate comparative data is not available, prices are developed using nonprofit agency costs.

Wide range of distribution channels.

JWOD products can be obtained through a wide range of distribution channels: the e-commerce website www.jwod.com, *GSA Advantage!*[™], and from commercial vendors on the GSA Multiple Awards Schedule. JWOD products are also available by calling (877) GET-JWOD, or by faxing (877) FAX-JWOD. The most current information on JWOD ordering and distribution channels is available at www.jwod.gov.

Reduced paperwork and pre/post-award costs.

Once a product or service is added to the Procurement List, the Government will continue to purchase it from the nonprofit agency. As long as performance on price, quality and delivery is maintained by the nonprofit agency and the Government’s needs remain, there is no need to re-compete the product or service. In addition, there is no need to issue a complete solicitation package each time a price is negotiated. This is a significant savings to the Government in terms of time and resources.

Central points of contact.

A unique advantage of the JWOD Program is its provision to contracting activities of a central point of contact in addition to the nonprofit agency

providing the product or service. In the event of problems, the designated organization—NIB or NISH—can be called upon by the nonprofit agency or the contracting activity to assist in their resolution. This assistance can take the form of engineering, management, and possibly even financial help. If a problem cannot be resolved through the efforts of the contracting activity, nonprofit agency, or NIB and NISH, the Committee staff is available to help.

...To Individuals Who are Blind or Have Other Severe Disabilities

JWOD work provides nonprofit agency employees with invaluable vocational opportunities that may not otherwise be available, which result in additional income and increased independence. Some tremendous advantages include:

Long-term work experience.

Unlike many short-term commercial contracts that are here today, gone tomorrow, the procurement of products and services through JWOD provides long-term, stable employment for individuals who are blind or have other severe disabilities. In many cases, it is their only vocational option.

Marketable job skills.

Employment under the JWOD Program provides a chance to develop job skills that offer opportunities for individual advancement. Through expanding their scope of experience and enhancing

their abilities, some employees are able to tackle new assignments at increasingly higher levels of difficulty. This experience prepares them for a wider variety of jobs in competitive employment either within or outside of the nonprofit agency. Sometimes such individuals are recognized by the Federal personnel they are serving as well-trained candidates for vacant Federal positions.

...To Taxpayers

Reduced dependence on Federal dollars and increased tax revenues.

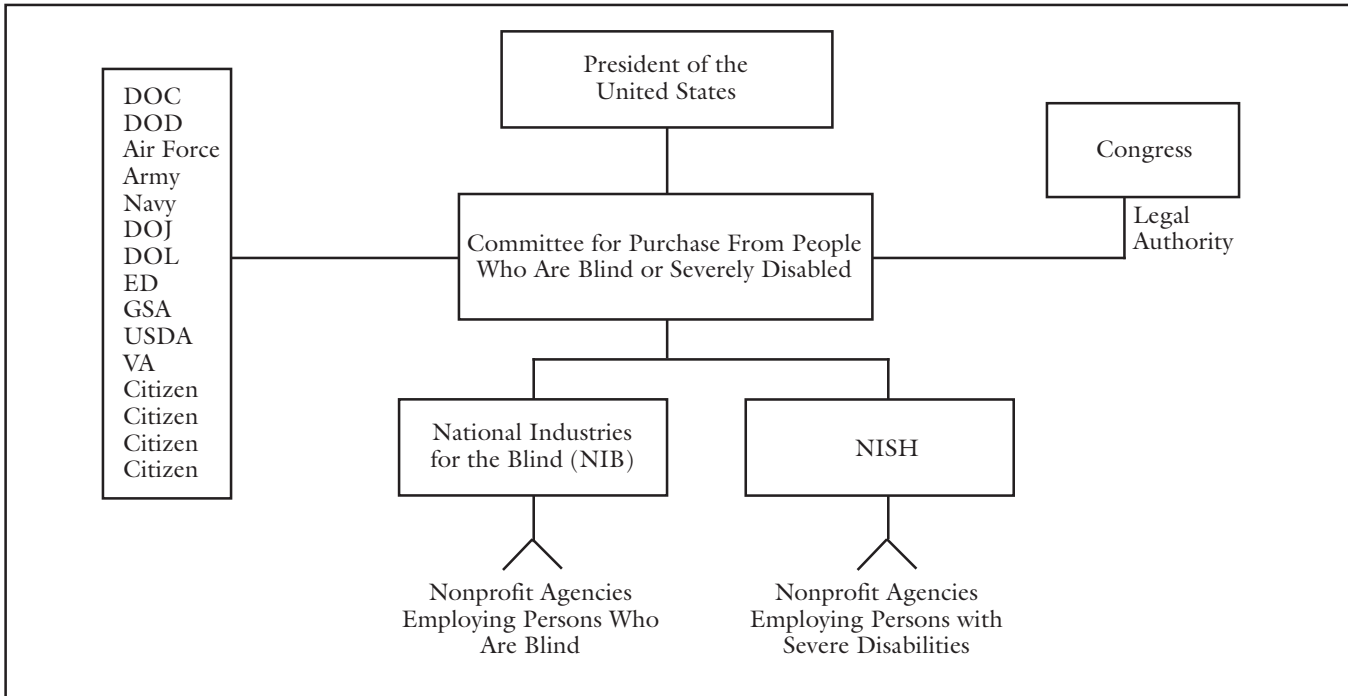
Independent research performed for the JWOD Program demonstrates that nonprofit agencies operating under the JWOD Act pay sufficient wages that permit people with severe disabilities to reduce their need for other Government entitlement payments and rehabilitation services, thus saving Federal dollars.

JWOD is not another “handout” program.

The JWOD Act does not put individuals with severe disabilities on the Federal “dole.” It does, however, give them an opportunity to work. Nonprofit agencies must ship products on time and perform services in a timely manner, at prices set by the Government, and they must meet quality requirements. If they do not, the Committee can authorize contracting activities to purchase the product(s) or service(s) involved from other sources, and if problems persist, remove the product(s) or service(s) involved from the Procurement List.

Members of the JWOD Team

The JWOD Program is a team effort. The active participation and commitment of each member of the team is essential if the Congressional intent reflected in the Javits-Wagner-O’Day Act is to be achieved.



Federal Personnel

Federal Government personnel, particularly those employed by contracting activities, are critical to the success of the JWOD Program. As indicated in the Committee’s regulations at 41 CFR Parts 51–1 and 51–5, support is required during all phases to ensure that the Program is effectively carried out.

While it might appear that only Federal employees with procurement responsibilities can support the JWOD Program, other Federal personnel have a role to play as well. Every Federal employee is affected in some way by the products and services purchased by the Government. Many supply clerks and “program” officials now have the authority to select and purchase products with Government Purchase cards, while individuals in

management positions are often capable of establishing policies that reflect the type of proactive approach to supporting the Program advocated by the Committee.

Consequently, this Handbook was developed to help all Federal personnel understand the JWOD Program and ways in which they can support it. In addition, it is intended to convey to contracting activity staff the role they are expected to play in its implementation. This role, which is consistent with the Competition in Contracting Act (P.L. 98–369), is described in more detail in a subsequent section of this document. It includes:

- Suggesting to the Committee, NIB, or NISH products or services that could be considered for addition to the Procurement List;

- Providing the procurement history, including sales, and other relevant information needed to determine whether a particular product or service is suitable for inclusion in the JWOD Program; and
- Ensuring that officials with purchasing or ordering authority buy products and services on the Committee’s Procurement List.

Committee for Purchase From People Who Are Blind or Severely Disabled

The Committee is a small, independent Federal agency of the Executive Branch. It is comprised of 15 Presidentially appointed members, 11 of whom represent Governmental agencies (Departments of Agriculture, Air Force, Army, Commerce, Defense, Education, Justice, Labor, Navy, and Veterans Affairs, and the General Services Administration). The remaining four members are private citizens knowledgeable about the employment problems of people who are blind or have other severe disabilities, including those employed by nonprofit agencies affiliated with the JWOD Program.

Among its many responsibilities, the Committee:

- Determines which products and services purchased by the Federal Government must be procured from nonprofit agencies employing people who are blind or have other severe disabilities;
- Establishes the fair market prices for these products and services, and revises the prices when appropriate;
- Ensures that nonprofit agencies comply with Committee rules and regulations (through on-site reviews of agency operations, annual certifications and other means);

- Assists entities of the Federal Government in expanding their JWOD procurement; and
- Designates one or more distributors for JWOD products and services.

To help carry out its mandate, the Committee has a full-time staff located in Arlington, Virginia. The staff reviews proposed products and services to ensure that the Committee has adequate data to determine their suitability for addition to the Procurement List. Information compiled by the staff is submitted to Committee members for consideration in deciding whether to add the products and services to the Procurement List.

Central Nonprofit Agencies: NIB and NISH

The JWOD Act directs the Committee to designate “a central nonprofit agency or agencies to facilitate the distribution” of Government orders of Procurement List products and services among nonprofit agencies employing people who are blind or have other severe disabilities. The Committee has designated National Industries for the Blind (NIB) and NISH as the National nonprofit organizations that perform this and other functions that assist nonprofit agencies to participate in the JWOD Program. NIB and NISH work closely with contracting activities and nonprofit agencies to match Government requirements with nonprofit agency capabilities.

One key activity NIB and NISH undertake in fulfilling their responsibilities is to visit Government contracting activities to explain the JWOD Program and to explore with Government personnel products and services which may be suitable for provision by nonprofit agencies. Once a potential Procurement List addition is identified, NIB or NISH works closely with the contracting activity

to obtain the data needed by the Committee to determine the suitability of a product or service for the JWOD Program. Other functions performed by NIB and NISH include:

- Submitting necessary documentation to the Committee for nonprofit agencies wishing to participate in the JWOD Program.
- Inspecting nonprofit agencies' capability to perform satisfactorily on Government contracts.
- Proposing initial prices for products and services under consideration and recommending adjustments to the prices of existing JWOD products and services.
- Providing technical assistance and training to nonprofit agencies such as: industrial engineering, production and inventory management, quality control, cost analysis, pricing, procurement, contract administration and processing additions to the Procurement List.
- Allocating Government orders among nonprofit agencies authorized to provide the product or service.
- Working with Government and commercial distributors of JWOD products to provide product information, pricing and operational support.
- Establishing and maintaining electronic commerce capabilities for the distribution of JWOD products (www.jwod.com).
- Assisting nonprofit agencies in complying with the JWOD Act, Federal contract provisions and the Committee's regulations.
- Acting as a troubleshooter when assistance with a JWOD product or service is needed by a nonprofit agency or contracting office.
- Working with the Committee to educate Federal customers about the JWOD Program and to promote its benefits.

NIB Structure

The NIB organization consists of two principal offices—its headquarters in Alexandria, Virginia, and a Technical Center in St. Louis, Missouri. The headquarters is responsible for overall administration, including Government and commercial business, military resale, financial management, rehabilitation services, sales, marketing and corporate communications, as well as nonprofit agencies' compliance with JWOD regulations. Headquarters staff also works with contracting activities and nonprofit agencies to identify potential JWOD products and services and guide them through the JWOD addition process, and perform other contract administration tasks and program development.

The Technical Center is a major source of engineering support for NIB-associated agencies, and on occasion, for contracting activities. Specialists with diversified expertise research state-of-the-art manufacturing methods and provide technical, preproduction, manufacturing, and quality engineering support. Engineers also develop special fixture and workstation modifications that enable people who are blind to participate in the provision of products or services.

NISH Structure

The NISH organization consists of a National Office located in Vienna, Virginia, and six Regional Offices, located nationwide. The NISH National Office staff is responsible for a variety of tasks, including: back-up engineering support, product/service identification and development, training, costing/pricing review, contract administration, regulatory assistance, fiscal management, marketing, communications, workforce development, research and program development.

The NISH Regional Offices are staffed with project managers, engineers, cost/price analysts, and

experts in a variety of different service and product areas. This decentralized organization facilitates working directly with nonprofit agencies and local offices of contracting activities to identify potential JWOD opportunities and carry out other functions associated with adding products and services to the Procurement List.

State and Private Nonprofit Agencies

Sometimes referred to as community rehabilitation programs (CRPs), work centers, industries, or rehabilitation facilities, JWOD-participating nonprofit agencies are organized under State (or in one or two cases, Federal) law and are operated in the interest of individuals who are blind or have other severe disabilities. Most are private nonprofit organizations; a few are State agencies. To be qualified to participate in the JWOD Program, at least 75 percent of the hours of direct labor performed annually by the nonprofit agency must be performed by workers who are blind in the case of agencies associated with NIB and by workers who are blind or have other severe disabilities in the case of agencies associated with NISH. This requirement is to ensure that the JWOD preferential procurement program serves the intended beneficiaries.

What is legal blindness?

The JWOD Act and the Committee's regulations define legal blindness as:

central visual acuity which "does not exceed 20/200 in the better eye with correcting lenses or... visual acuity if better than 20/200... accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle no greater than 20 degrees."

What is a severe disability?

The JWOD Act and the Committee's regulations define a severe disability other than blindness as:

"a severe physical or mental impairment (a residual, limiting condition resulting from an injury, disease, or congenital defect) which so limits the person's functional capabilities (mobility, communication, interpersonal skills, self-care, self-direction, work tolerance or work skills) that the individual is unable to engage in normal competitive employment over an extended period of time."

As evident by the above definitions, the JWOD Program is focused on providing employment and training opportunities for two specific groups—people who are blind and people who have other severe disabilities and are unable to obtain or maintain competitive employment. A 1997 survey of JWOD employees revealed that an estimated 30% of employees who are blind working at NIB-affiliated agencies had secondary disabilities in addition to blindness. Approximately 78% of employees working at NISH-affiliated agencies experienced cognitive disabilities such as mental retardation, mental illness and learning disabilities, and 40% had multiple disabilities.

The primary disabilities of all JWOD employees in 1997 included 17% who were totally or legally blind, 36% with mental retardation, 18% experienced mental illness, 10% with physical disabilities, 5% who were deaf or hearing impaired, and 14% with other severe disabilities, such as learning disabilities, alcoholism/substance abuse and neurological disorders.

In order to participate in the JWOD Program, nonprofit agencies, like other Federal contractors, must be able to provide a quality product or service, on time, at a fair market price. And like other Federal contractors, nonprofit agencies must comply with all regulatory requirements governing entities that do business with the Federal Government. These requirements include, but are not limited to, environmental regulations and Department of Labor (DOL) regulations, including Occupational Safety and Health Administration (OSHA) and wage and hour requirements.

The JWOD Process

A better understanding of how the Program operates can be acquired by considering each of the four phases of the “JWOD Process”:

- Identification
- Development
- Committee Review/Decision
- Production/Performance

The Identification Phase

The best time to identify an opportunity is prior to solicitation when the requirement is first identified as a requirement by the Federal agency. While identification of potential JWOD products and services usually takes place at the NIB and NISH offices, it is always best for Federal employees to bring new product and service opportunities to the attention of a JWOD liaison. But regardless of who identifies potential opportunities, NIB and NISH rely on the assistance of Federal staff and nonprofit agencies—Federal staff because they know their requirements better than anyone else and nonprofit agencies because they know their capabilities better than anyone else. In fact, there are a number of ways the three groups can work together to identify a potential JWOD product or service (for a listing of existing products and services go to www.jwod.gov):

- The Committee, staff, NIB and NISH can brief an agency’s personnel on the JWOD Program and describe the kinds of projects nonprofit agencies are currently performing. These presentations often prompt Government employees to think of products and services they buy that might be suitable for provision by nonprofit agencies.
- Federal personnel can check with the Committee staff, NIB or NISH to learn about the types of

JWOD products and services the organization already buys (www.jwod.gov is an excellent resource). Armed with this knowledge, Federal employees may be able to identify projects that are similar or require comparable capabilities.

A good example of the identification of similar products involves the production of a strap for the Defense Logistics Agency. After addition of one type of strap to the Procurement List, other types of straps were identified within DLA for provision under the JWOD Program. Variations on the same theme were found in other agencies, such as the Army Materiel Command. The nonprofit agency providing the initial strap now meets several customers’ requirements for a similar product.

- NIB and NISH technical staff can cooperate with Government research and development agencies during the design stage to develop products that can both meet Government requirements and be provided by nonprofit agencies under the JWOD Program.
- Contracting activities can refer their counterparts in other agencies to the JWOD Program—thus creating new employment opportunities for people with disabilities as well as providing Federal customers with a reliable source for needed products and services.

Federal staff can also recommend potential projects at other agencies to NIB or NISH—as was the case when a General Services Administration (GSA) Regional Office recommended that NISH contact personnel in a U.S. Department of Housing and Urban Development (HUD) Regional Office. This referral resulted in the creation of a “Management Services” program, consisting of inventory, mail and document management modules. The program has been implemented at various HUD sites and more sites are being considered to participate in the future.

- Forging a strong relationship with the JWOD Program helps contracting personnel obtain products and services to suit their specific needs while creating new employment opportunities for people who are blind or have other severe disabilities.

When the U.S. Department of Agriculture opened the George Washington Carver Facility in Beltsville, Maryland, it chose the JWOD Program to provide an economical and reliable solution to its building management needs. The USDA realized that services acquired by multiple contracts would cost many hours and dollars to administer and that taking a single contract approach with a program that consistently met their needs was beneficial to everyone involved. Through the JWOD Program, a contract valued at more than \$2 million per year was offered to the Melwood Horticultural Training Center. This local nonprofit organization supporting people who are blind or have other severe disabilities manages the building and subcontracts services as needed to other community rehabilitation programs or to commercial firms when the skills are not available within the disability support organizations in the area. Recognizing both the economic and social benefits, other Federal agencies have adopted USDA’s model.

There are a number of criteria that make some products and services more suitable than others for addition to the Procurement List (e.g., the product or service is relatively labor intensive; demand for the product or service is significant; demand is steady over time). As a rule of thumb, Federal personnel should recommend to NIB, NISH, or the Committee all projects that seem reasonably possible. These members of the JWOD team can then move forward in investigating the feasibility of adding products and services to the JWOD Procurement List. In the meantime, NIB, NISH and the nonprofit agency community comb the Commerce Business Daily, the Electronic Posting System and similar resources, and contact Federal offices and military installations to investigate possible leads. Once an opportunity has been identified, the development phase begins.

The Development Phase

Although a joint contracting activity/NIB/NISH/nonprofit agency effort is desirable to find a potential JWOD product or service, a cooperative thrust is essential to process the project through the development phase.

Contract information is acquired. At this point, an item has been identified as a candidate for placement in the JWOD Program and provision of the product or service is “reserved” by NIB or NISH for a qualified nonprofit agency whose capabilities and resources appear to be compatible with the Government’s requirements. Before proceeding further, the project is fully investigated. The research conducted to determine feasibility is intensive, but necessary; NIB and NISH want to ensure that there are no surprises—for the Government or for the nonprofit agency. NIB and NISH must also be in a position to provide information required by the Committee to determine whether an item is suitable for addition

to the Procurement List. In their investigation, a thorough review is undertaken of:

- **The Current Requirement.** A detailed review of the current requirement helps NIB or NISH to determine the manufacturing process/service tasks required, the direct labor content involved, the material requirements, any capital equipment needed, the amount of space required, and quality assurance requirements. Since this information is being obtained in response to Committee requirements, the Freedom of Information Act (FOIA) and associated costs are not applicable.

For products under contract with a single Government customer, NIB or NISH obtains from the contracting office a copy of the complete, current contract. Information such as the latest solicitation and amendments, bid abstracts, procurement history, the estimated annual usage quantities, and the anticipated date of the next solicitation issuance and opening may also be necessary.

For services, background material may be requested including the statement of work, any modifications, previous problems and the applicable Wage Determination.

- **Future Requirements.** What is the Government's anticipated need for the product or service in the future? When applicable, NIB or NISH asks the contracting activity for an estimated annual usage amount and a forecast quantity for the next procurement year to ensure that the nonprofit agency(ies) designated to provide the product or service can meet the maximum needs required by the Government. Another reason for asking is to determine whether the requirement might be phasing out or significantly decreasing in quantity during the coming years which would have an effect on JWOD employees.
- **The Next Contract Anticipated.** To determine whether there is sufficient time to complete the

development and addition process for a particular product or service before a new contract is awarded, NIB or NISH must obtain certain information from the contracting activity. This information must include the anticipated date of the next competitive solicitation, as well as the anticipated date of the bid opening and the contract performance period. If there is not sufficient time to complete the addition process, development efforts are delayed until after the new award is made, at which point the new award becomes the current contract and the information described in the preceding paragraph must be obtained with respect to that contract.

Inclusion of a product or service in the JWOD Program must be timed properly to ensure a smooth transition from the current contractor to the nonprofit agency(ies). Ideally, an item is added to the Procurement List as soon as possible after the award of a contract for the item to another source or sources. This gives the nonprofit agency(ies), NIB or NISH, and even the contracting activity, the maximum amount of time to prepare for the nonprofit agency's assumption of product or service responsibility. It also gives the current contractor more time to adjust to the future loss of business.

Although NIB and NISH must analyze very specific information as part of the development process, the list above is not exhaustive. Depending upon the project, there may be other information required to adequately assess the feasibility of adding a product or service to the JWOD Procurement List. Updates of data already provided may also be required.

After determining the nonprofit agency is financially responsible, has the capacity to manufacture the product or provide the service, and can provide employment and training opportunities for people who are blind or have other severe disabilities in the process, the development process continues.

Clearance is obtained. If the project under consideration is a service, further development efforts start immediately. If the project is a product, however, an additional step is necessary.

When JWOD's predecessor—the Wagner-O'Day Program—was established in 1938, the Government was required to purchase products from Federal Prison Industries (FPI) as a first priority and nonprofit agencies affiliated with NIB as a second. In 1971, NISH nonprofit agencies entered the product priority structure after NIB. This means that before proceeding with the development of a product, NIB must obtain a clearance from FPI, while NISH is required to obtain a clearance from both FPI and NIB. Such clearances vary from complete waivers of future claims on products to partial or short-term waivers. FPI, for example, may give NIB or NISH permission to provide a product until FPI is ready to assume product responsibility.

Procurement history is finalized. To complete the procurement history on the proposed project, NIB or NISH requests from the contracting activity a two-year procurement history including: Invitation for Bid (or other forms of solicitation) information, dates of solicitations, award dates, contract terms or delivery periods, awardees (including name, city, state and contractor establishment code), award prices and quantities. Sometimes, a sample of a product is requested.

In addition, NIB or NISH asks for information regarding problems encountered by the current or prior contractors in providing the product or service. With this information, NIB and NISH can alert the nonprofit agency(ies) and prevent problems before they happen.

NIB or NISH also asks for information regarding contracts or commitments under the Small Business Administration's (SBA's) 8(a) Program. Although JWOD has legal priority over the 8(a) Program, the Committee gives special consideration to contracts awarded under 8(a) in deciding whether

to add the product or service to the Procurement List and when to permit nonprofit agencies to assume responsibility.

Contractor impact is assessed. NIB or NISH performs a preliminary review to determine if there will be any economic impact on the current contractor as the result of a Committee decision to add the product or service to the Procurement List. Although the definitive decision on impact is made by the Committee at a later stage, NIB or NISH makes a preliminary impact assessment at this point to ensure efforts are not expended on a project where impact is likely to be too severe. NIB or NISH will request the Committee write to the current contractor to gather up-to-date information for assessing actual impact. The Committee will not add an item to the Procurement List where that addition would create severe adverse impact on the current contractor.

A feasibility assessment is conducted. The nonprofit agency(ies), along with assistance from NIB or NISH, carefully considers all aspects of project feasibility, including the specific functions to be carried out by people with severe disabilities. At the request of the nonprofit agency(ies), NIB or NISH will perform an on-site visit and/or review the information collected at a previous site visit. If the assessment shows that the product or service can meet the Government's quality standards and delivery schedule, at a fair market price, the development phase proceeds.

A recommended "fair market price" is developed. The Committee is responsible under the JWOD Act for determining the fair market price for products and services provided by nonprofit agencies, and has established procedures for making this determination. The nonprofit agency, with the assistance of NIB and NISH, will develop a proposed price and then negotiate with the contracting activity a mutually acceptable price to recommend to the Committee. This "recommended fair market price" will eventually

be submitted to the Committee staff for review along with the project package for the product or service. The recommended price is not necessarily the price ultimately designated by the Committee—only the Committee has the authority to establish the price for products and services under the JWOD Program, and that price is set at the time the product or service is actually added to the Procurement List.

A capability survey is requested. In addition to NIB or NISH assessing the capability of the nonprofit agency to provide the product or service, the Committee gives the contracting activity the opportunity to perform a site survey to determine the production, quality assurance, technical and financial capability of the proposed nonprofit agency to provide the product or service under consideration. During discussions NIB or NISH may ask the contracting activity if it wishes to conduct an on site capability review. In most cases, if the contracting activity wishes to conduct a survey, the Committee will formally request the survey and a copy of the results from the contracting activity. The Committee asks that the survey be performed as soon as possible, normally within 30 or 45 days.

Some nonprofit agencies proposing to add items to the JWOD Program are not in production or prepared to begin production of the product or service at the time of an on-site inspection. Instead, they have developed production plans that can be used to assess their capabilities to provide the product or service in question (41 CFR Part 51–2.4(c)). These production plans address the agency’s capability to meet the Government’s surge requirements for products or services. For products, the Committee requires that the nonprofit agencies be capable of providing not only the annual quantity estimated by the contracting activity, but also at least 25 percent above that estimate. Where estimated peak monthly requirements have been established by the contracting activity, the nonprofit agencies must be capable of providing those requirements.

The final package is submitted to the Committee. This package contains detailed information on the recommended fair market price as well as information on the number of direct labor hours that will be performed by people who are blind or have other severe disabilities. For projects that require time to train and phase in direct labor workers with severe disabilities, specific information on the phase-in schedule is provided. Also included in the package is information on current and previous contractors.

The Committee Review/ Decision Phase

The Committee staff performs a preliminary review of the package. During the review, the staff checks:

- The agency’s nonprofit status to ensure that the proposed agency is a nonprofit entity primarily employing people who are blind or have other severe disabilities;
- The amount of employment to be generated for people who are blind or have other severe disabilities;
- General information concerning the proposed price to determine if the appropriate method has been used to calculate it; and
- Data gathered thus far on impact of the addition, if any, on the current supplier and on small entities as defined by the Regulatory Flexibility Act of 1980.

A notice is published in the *Federal Register*. This notice of a proposal to add a product or service to the Procurement List is normally published after the Committee staff completes its preliminary review of the final package. The public is given a period of 30 days to comment on the proposed addition. The 30-day comment period may be extended by the Committee if the situation warrants.

The Committee staff analyzes all material submitted in conjunction with the proposed addition. During the 30-day period, the Committee staff continues its review of material submitted in conjunction with the proposed addition. This includes a review of the jointly-determined proposed price and, if the contracting activity has performed a capability survey, the results of that survey. If necessary, the Committee staff discusses pricing and the results of the capability survey with representatives of the contracting activity and NIB or NISH.

When the 30-day period required for public comment has elapsed and the Committee has received all the data it needs from the contracting activity and other sources, a final detailed analysis is performed by the Committee staff. This effort includes a careful review of any comments received regarding the proposed addition, and the acquisition and analysis of any supplemental information needed as a result of comments submitted. Upon completion of the analysis, information concerning the product or service, including copies of comments received in response to the *Federal Register* notice, is transmitted by the staff to all members of the Committee for a decision regarding the addition.

The Committee members decide whether to add the proposed product or service to the Procurement List. If the decision is to add the item, a “Notice of Addition to the Procurement List” is placed in the *Federal Register* announcing the action. Also a “Notice of Change to the Procurement List—Addition” is mailed to the contracting activity. This notice identifies the product or service, National Stock Number or other comparable identifier (for products), price and effective date. The effective date of the addition is 30 days after the “Notice of Addition” appears in the *Federal Register*. At that time, the nonprofit agency(ies) authorized to provide the item is responsible for meeting any subsequent

Government requirements that are not covered by contracts awarded prior to the effective date (including options which may be exercised for those contracts.)

That sums up the addition process. On average, the time that elapses between the first formal contact between NIB or NISH and the Committee and the date of addition to the Procurement List is approximately three to four months. However, this can vary considerably, as can the significantly greater amount of time between initial item identification and actual addition to the Committee’s Procurement List. In large part, the amount of time between initial identification and addition depends upon the extent of assistance received throughout the identification and development phases from contracting activity personnel. The more support provided, the faster the process can go.

The Committee, NIB, and NISH have devoted substantial effort over the years to reducing the amount of time it takes to place an item on the Procurement List. Although further acceleration of the process is possible, particularly with increased support from contracting activities, overnight action is neither feasible nor desirable. At least two months of the time required can be attributed to statutory requirements regarding *Federal Register* publication. The remaining time is necessary for ensuring a complete understanding of the project and close attention to the Government’s requirements. The JWOD team is dedicated to making a “good match” between the Federal Government and the nonprofit agency(ies) to ensure a reliable supplier over many years.

The Production/Performance Phase

Within 30 days after a product has been added to the Procurement List, NIB or NISH contacts the contracting activity to confirm when the next order is expected and the quantity anticipated. This estimate is then provided

to the nonprofit agency(ies) for planning purposes. For services, which usually involve assuming responsibility for particular functions (e.g., janitorial) on a specified date, the authorized nonprofit agency(ies) and NISH or NIB continue to work closely with the contracting activity to provide on-time, uninterrupted service.

In terms of performance, nonprofit agencies operating under the JWOD Program understand that the Government expects the same of them that it does of other suppliers. All JWOD products and services are required to meet the product specifications or performance work statements. NIB and NISH staff—and occasionally Committee representatives—work with the agencies to avoid problems and ensure that the Government receives quality products and services. This “back-up” assistance is among the greatest benefits offered by the JWOD Program and affects each of the following:

- **Modifications of Terms or Conditions.** As with other Federal Government contracts, should a need arise to modify the original terms and conditions of a JWOD contract, a written modification signed by the Contracting Officer or the authorized Administrative Contracting Officer, acting within the scope of his/her authority, is required. Based upon the extent and nature of the change, an equitable adjustment in contract price or the delivery schedule may be appropriate.
- **On-Time Delivery.** Nonprofit agencies in the JWOD Program pride themselves on their on-time delivery records. Federal contracting activities report that nonprofit agencies employing people who are blind or have other severe disabilities perform as well or better than other contractors in this respect. When problems occasionally arise, NIB and NISH join with the agencies to resolve difficulties as quickly as possible, going to great lengths to prevent failures.
- **Purchase Exceptions.** In rare instances where a nonprofit agency cannot provide the required product or service within the specified time, and a commercial source is able to supply the identical product or service significantly sooner than the nonprofit agency, NIB, NISH or the Committee may grant a purchase exception. A purchase exception permits the contracting activity to procure the product or service from another source on a one-time basis or for a specific period. Purchase exceptions are also granted if the quantity of the product involved is not sufficient to be furnished economically by the nonprofit agency(ies).

Because purchase exceptions deny work to people who are blind or have other severe disabilities that would otherwise be available to them, nonprofit agency staff, who are dedicated to helping people with severe disabilities succeed, go to great lengths to avoid situations where purchase exceptions must be issued. In addition, contracting activities must fully justify requests for such actions and are urged to work with NIB or NISH to explore such options as a revised delivery schedule, or the involvement of a new nonprofit agency to produce the product or perform the service within the required time frame.
- **Compliance with JWOD and Federal Regulations.** Contracting activities are not held responsible for ensuring nonprofit agency compliance with the JWOD Act and Committee regulations. Monitoring compliance is the job of the Committee, NIB, and NISH. Representatives of these organizations visit nonprofit agencies on a regular basis to observe operations, review files and other documentation, and provide technical assistance. Most NIB and NISH agencies have participated in the JWOD Program for many years and have been visited on numerous occasions. NIB and NISH agencies that are new to the Program, receive on-site instruction early in the process to ensure that

they are familiar with the types of data that must be maintained to meet Committee requirements. NIB, NISH and the Committee staff offer assistance to nonprofit agencies regarding other regulatory areas such as: Affirmative Action practices; DOL regulations; Department of Justice requirements relating to immigration and naturalization; and OSHA standards.

- **Price Changes.** In accordance with the JWOD Act, which tasks the Committee to revise its price determinations “from time to time,” there are several methods in place for adjusting the fair market price to compensate for changes in marketing conditions. The procedure for repricing varies depending on whether it is a product or service.

For products, the method of revising the price during an existing contract should be part of the negotiation that helped establish the existing price. The Committee requires that the recommended price be negotiated at least once every five years.

For services, every five years the Committee approves a base price plus four annual follow-on prices. The follow-on year prices approved by the Committee only contain an economic adjustment on supplies. As a result, adjustments are permitted for changes in other costs such as wages and fringe benefits reflected in the Wage Determination issued by the Department of Labor and payroll related costs. Changes in nonprofit agency costs due to changes in the statement of work are negotiated between the contracting activity and the nonprofit agency.

- **Specification Changes/Replacement Products and services.** Contracting activities are expected to notify NIB or NISH and the appropriate nonprofit agency(ies) 90 days prior to any changes in methods of acquisition, product specifications/standards (products), or statements of work (services). When a Procurement List product is replaced or

supplemented by another product(s), the replacement product(s) is considered to be on the Procurement List for provision by the same nonprofit agency(ies) authorized to furnish the previous product. Again, the contracting activity is expected to advise NIB or NISH and the appropriate nonprofit agency(ies) 90 days in advance of decisions to replace or supplement products on the Procurement List with other products.

Ordering Products

To place an order for JWOD products, there are three methods:

I. Use of JWOD Authorized Distributor(s)

The first method applies to common-use products, such as office supplies or industrial products, that are found on the JWOD Program’s Procurement List for the “total Government requirement”—meaning that all Federal customers who require such products should purchase those furnished by the JWOD Program. JWOD common-use products are made available to many Federal end-users through Government or commercial distributors.* For a full listing of JWOD distributors, go to www.jwod.gov. You can also shop for JWOD products on the following online sites: www.jwod.com, www.gsaadvantage.com, and www.emall.dla.mil. As of the date of this Handbook, JWOD products are not available through commercial retail stores.

II. Direct Orders

The other two methods for ordering apply to JWOD products that are purchased by only one Federal agency, such as when the Army purchases physical fitness uniforms sewn by JWOD participating nonprofit agencies. This method

**This includes the General Services Administration (GSA) and Defense Logistics Agency (DLA) Depot systems as well as the Federal supply schedule holders and military base supply centers.*

allows the purchase of products by transmitting orders directly to the nonprofit agency(ies) involved. This may be accomplished once NIB or NISH issues a written “direct order authorization” to the contracting office.

The authorization:

- (1) indicates the address(es) to which the order should be sent;
- (2) specifies the National Stock Number (NSN), product description, unit and unit price of the product covered by the authorizations; and
- (3) requests that copies of procuring documents (e.g. purchase orders) be forwarded to NIB or NISH.

The actual documentation required to place an “order” depends upon the contracting office’s normal procedures. For example, GSA activities go through their central ordering channels and a GSA Form 3186 is issued to the nonprofit agency(ies). Department of Defense activities usually transmit orders to nonprofit agencies via DD Form 1155, regardless of dollar value. Although the specific vehicle used may differ from agency to agency, all orders should contain the same basic information, including:

- (1) name and address of nonprofit agency(ies) supplying the product;
- (2) the authority (i.e., mandatory source: 41 U.S.C. 48, 41 CFR Chapter 51 and FAR Subpart 8);
- (3) the delivery terms (most JWOD products are priced F.O.B. Origin and include costs for packaging, packing and marking);

- (4) a product description (should include NSN, quantity, and packaging information); etc.

The nonprofit agency(ies) is the contractor, or—on rare occasions—NIB will serve as contractor for their nonprofit agencies.

III. Allocated Orders

Under the final method, which tends to be utilized by Defense Logistics Agencies, Army Commands, and the U.S. Postal Service, NIB or NISH reviews the quantities to be ordered by the contracting activity and, based on a variety of criteria, allocates the order to one or more authorized nonprofit agencies. The allocation process is also used in situations where there are multiple nonprofit agencies authorized by the Committee to manufacture the same product. Under this method, the contracting activity is instructed to notify NIB or NISH of its requirements and request the designation of a nonprofit agency(ies) to supply the product. Prompt responses are provided to such requests. As referenced above, on rare occasions involving complex products provided by multiple nonprofit agencies, NIB serves as the prime contractor. In such cases, NIB receives orders and is responsible for assuring timely deliveries.

Ordering Services

To obtain services, Federal customers follow the direct order process detailed for products using the purchase document applicable for their agency. NIB or NISH will be in contact with the contracting office for the service in question to arrange the date for the assumption of service responsibility for the nonprofit agency.

Process of Adding Items to the Procurement List

NIB/NISH/Nonprofit Agency Responsibility

NIB, NISH, State/private nonprofit agency or contracting activity identifies an item for possible provision.

NIB/NISH requests solicitation and other related documentation from contracting activity, reviews it and, if appropriate, works with a nonprofit agency to determine its interest/capability to provide the item.

For supplies, NIB/NISH requests clearance from FPI (and NIB, if item is requested by NISH).

NIB/NISH conducts a preliminary analysis of the impact of the proposed addition on the current contractor.

NIB/NISH evaluates the overall feasibility of the project, which includes generating a proposed fair market price and assessing (usually through an on-site inspection) the capability of the nonprofit agency(ies) to provide the item at that price.

With NIB/NISH assistance, the nonprofit agency(ies) and contracting activity negotiate the proposed fair market price.

NIB/NISH proposes addition, providing Committee staff with pricing information and other documentation regarding the addition, including or preceded by a site survey request.

Committee Responsibility

Staff requests contracting activity to inspect the nonprofit agency to assess its capability to provide the product or service if such a capability assessment is not already provided through NIB or NISH.

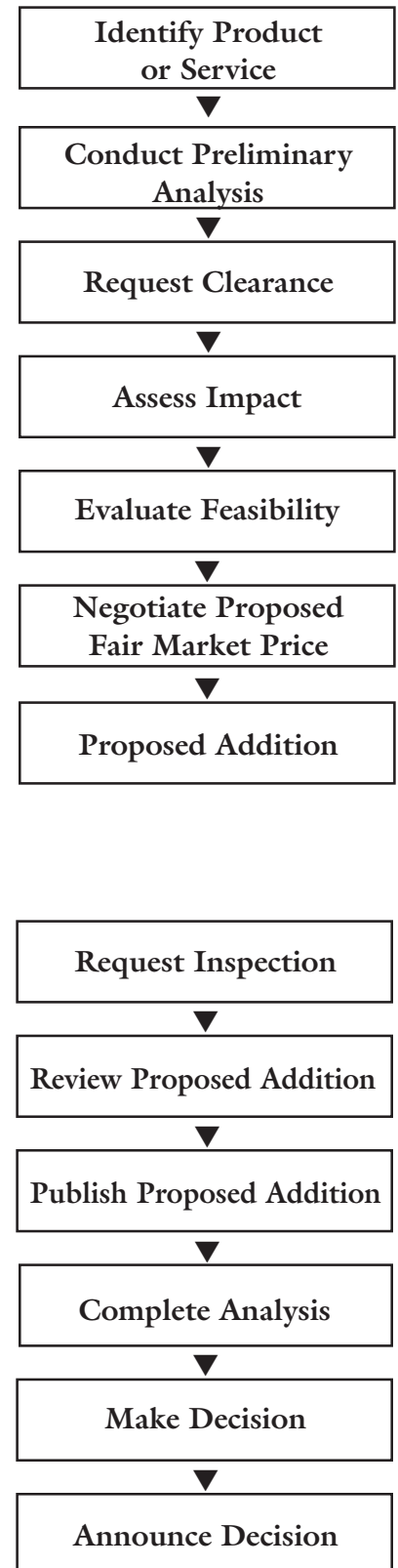
Staff reviews documentation submitted by NIB or NISH and makes preliminary evaluation of impact of proposed addition.

Proposed addition is published in the *Federal Register* for public comment.

Staff completes analysis of the proposed addition, including any comments, and transmits it to Committee members for consideration.

Committee members approve or disapprove the proposed addition.

If the Committee members approve the item, the addition is published in the *Federal Register*. Addition is effective 30 days after it appears in the *Federal Register*, and the nonprofit agency can begin providing the item after expiration of the current contract and any options to that contract that may be exercised.



Federal Employees' Role in the JWOD Process

The participation of Federal personnel is critical to the successful administration of the JWOD Program. Contributions by such employees will not only ensure the Federal Government of a reliable source of quality goods and services, but also provide valuable employment opportunities for people with severe disabilities throughout the United States. Federal employees can help the JWOD Program achieve success in a number of ways:

Be Interested!

Being willing to learn more about JWOD—particularly the capabilities of the individuals the Program serves—and being ready to take action are important first steps. Federal agencies are encouraged to appraise their needs and have appropriate contracting personnel contact the Committee, NIB, or NISH to explore the possibility of obtaining certain products and services under the JWOD Program.

Establish a Central Point of Contact for JWOD.

The steady stream of personnel in and out of Federal agencies makes it difficult to maintain constant support for the JWOD Program. As a result, the Committee recommends that a central entity or individual be designated to oversee agency-wide support of the Program. Duties for the central point of contact would be to assist and coordinate the efforts of the agency in all matters relating to the provision of existing JWOD products and services, and to foster and encourage the identification of new products and services JWOD employees could provide. For example, the Department of the Interior has designated a Program Manager for mandatory source procurement initiatives. The largest Federal agencies have designated liaisons who work with the Committee to promote the JWOD Program. The liaisons' names can be obtained from the Committee's staff.

Invite JWOD Representatives to Speak at Agency Functions.

Representatives of the JWOD Program make hundreds of visits nationwide to brief contracting activities on the JWOD Program. In conjunction with these briefings, samples of JWOD products and videos of individuals performing JWOD services can be furnished to demonstrate the diversity of capabilities of nonprofit agencies. NIB and NISH or the Committee staff can supply and, if appropriate, accompany portable JWOD Program exhibits, meet one-on-one with individuals, make presentations to large groups, speak in procurement classes, and participate in panel discussions.

Give Credit for Supporting the JWOD Program in Employee Performance Evaluations.

Federal agencies can demonstrate their commitment to supporting the JWOD Program by acknowledging JWOD accomplishments in employee performance evaluations. Agencies might choose to follow the lead of the Air Force, Army and Navy, which have established annual awards to recognize individuals and/or units that have contributed significantly to the advancement of the JWOD Program. Some examples of activities employees can receive credit for include:

- Acting as a JWOD liaison for their agency;

- Identifying and referring products and services for possible addition to the Procurement List;
- Attending JWOD training sessions;
- Educating other agency employees about the JWOD Program; and
- Increasing dollar value of orders placed under the JWOD Program.

Visit a Local Nonprofit Agency

With more than 625 nonprofit agencies already participating in the JWOD Program and numerous others “waiting in line” for a JWOD product or service, Federal employees should have no problem in locating an agency to visit. Such on-site visits provide an excellent setting for Federal personnel to learn more about nonprofit agency operations and the capabilities of employees, as well as to consider potential projects. The Committee, NIB and NISH will help make arrangements for Government representatives who wish to visit nonprofit agencies serving people who are blind or have other severe disabilities.

Examine Requirements and Suggest Products and Services Nonprofit Agencies Could Provide.

JWOD nonprofit agencies have diverse capabilities and provide everything from paperclips to chemical protective suits, from sailor’s caps to microfilming, and a variety of products and services in between. One of the best ways Federal employees can support their agencies and the JWOD Program is to carefully review agency requirements, including

commercial activities identified as such in compliance with the Federal Activities Inventory Reform Act, and explore the feasibility of provision by nonprofit agencies. Often this role is best performed by requirements, engineering, or facilities personnel.

Assist NIB and NISH During the Development Phase.

Development is one of the most critical phases of placing products and services on the Procurement List. Contracting activity assistance can help expedite the development and addition process—arming nonprofit agencies with all the relevant data needed to thoroughly review the project, assess its feasibility and develop a reasonable price benefits them and the Federal agency involved by assuring that the requirement is fully understood, price negotiation is easily conducted, and performance meets government regulations. Information required during development includes data regarding:

- The procurement history, including IFB/RFP numbers, dates of solicitations, award dates, contract terms and delivery periods, and information on awardees, award prices and quantities, and any problems experienced in conjunction with the product or service;
- The current requirement, including the complete current contract, performance specifications, area scale drawings, work statements and any contract modifications; and
- Future requirements, including the next contract anticipated and expected subsequent requirements (annual usage amount).

Help Streamline the Capability Survey Process.

Contracting activities can inspect the facilities and plans of nonprofit agencies proposing an addition to the Procurement List (FAR 9.107). The Committee normally requests that such capability surveys be completed within 30 to 45 days. Unfortunately, many survey results take considerably longer to reach the Committee, thereby delaying the addition process. To avoid delays, contracting activities should:

- Be persistent in following up on the request for a capability survey. Attempt to establish the earliest date by which the survey can be accomplished and regularly check to ensure the inspection is “on target.” One phone call may be all that is needed to advance the survey process.
- Recognize and instruct those responsible for conducting capability surveys that nonprofit agencies must demonstrate that they have the capability—or a specific plan for achieving the capability—to perform. A nonprofit agency that does not have a production line in operation should not fail the capability survey if it provides the inspector a plan that satisfactorily addresses how the work will be accomplished within specified time-frames. The Committee’s regulations (41 CFR 51–2.4(c)) require only that a nonprofit agency have the capability to meet the Government’s quality standards and delivery schedules by the time it assumes responsibility for supplying the requirement under the JWOD Act.
- Notify the Committee as soon as possible of the survey results; don’t wait for the Committee to come back and ask for them. The nonprofit agency’s opinion of the inspection results is not sufficient to proceed with the addition.

Buy JWOD Products and Services Identified in Print and Online Catalogs.

The JWOD Act requires that products and services appearing on the Committee’s Procurement List be purchased from the suppliers designated by the Committee. This requirement is reflected in the Federal Acquisition Regulation (FAR 8.704), as well as the Committee’s regulations (41 CFR 51–5.2).

Federal employees with purchase cards do not, however, always remember to purchase common-use JWOD products (e.g., office products, hardware, and paint) stocked by GSA or other authorized commercial distributors or obtainable through www.jwod.com. Instead, these types of products and services are sometimes procured from private sources without reference to GSA or other catalogs, where they are clearly marked as mandatory source products. In such cases, people who are blind or have other severe disabilities are deprived of the much-needed employment that would be generated by Federal purchases of JWOD products and services.

To ensure that people with severe disabilities benefit from the JWOD Program as Congress intended, it is essential that Federal personnel with requirements for office products, hardware, and other commonly used products use JWOD-inclusive catalogs, including those published by the JWOD Program itself, or catalogs published by commercial JWOD distributors participating in GSA Multiple Award Schedules or other initiatives.

*GSA Advantage!*TM Online Shopping System (www.gsadvantage.gov) and www.jwod.com are also excellent resources. These sources of product and ordering information clearly identify JWOD products, making it easy for Federal personnel to obtain the products they need, while providing work for people who are blind or who have other

severe disabilities. All of these JWOD distributors accept the Government SmartPay Purchase Card as a payment method.

Train and Retrain Purchase Card Holders on JWOD Requirements.

Government purchase card holders have a responsibility to comply with Federal statutes and procurement regulations. The JWOD Program has worked hard to educate purchase card holders about JWOD requirements and benefits. JWOD Purchase Card training kits are available to purchase card Agency Program Coordinators and to individual users. The kits can be found on the JWOD informational web site, www.jwod.gov, or may be requested from the Committee via email to info@jwod.gov. Comparable JWOD training is provided free of charge on the Federal Acquisition Institute's Online University, www.faionline.com. Guest speakers, videos and/or product samples are also available.

Consider Long-term Acquisition Methods to Stabilize Demand.

The JWOD Program was established to provide long-term employment opportunities for people who are blind or have other severe disabilities employed by nonprofit agencies. The process of adding a product or service to the Committee's Procurement List accomplishes this objective; however, when it comes to Government-unique products, nonprofit agencies sometimes experience time lags between orders or receive requests for widely variable quantities. An initiative was undertaken by the Defense Logistics Agency in 1988 to address this problem by leveling out orders for products purchased under JWOD. The initiative called for

more long-term acquisition planning for JWOD products to facilitate continued employment and development of job skills for JWOD employees, while at the same time ensuring steady production of needed products for the Government.

By implementing long-term and multiyear acquisition methods as a means of smoothing out peaks and valleys in orders, production line stoppages are minimized and the need for lengthy retraining of individuals who are blind or have other severe disabilities is eliminated. In addition, nonprofit agencies are in a better bargaining position with their suppliers inasmuch as they can make longer term commitments for greater quantities, thereby saving money for the Government. This approach also reduces Federal costs because agencies do not issue repetitive orders for ongoing requirements and allows for more uniform inventory management. The Committee encourages all Federal personnel to consider similar initiatives.

Tell Federal Colleagues About JWOD Program Success Stories.

If a JWOD contract for grounds maintenance, mailroom operation, or other service is far exceeding a contracting activity's expectations, the Committee urges the Federal staff involved to spread the word. Similarly, if products now purchased from a JWOD nonprofit agency eliminated the delinquency problem with the last contractor, coworkers should be advised. Telling others about JWOD successes can benefit the Federal Government and people who are blind or have other severe disabilities.

Attend the NIB and NISH Conferences.

The NIB and NISH conferences offer unique opportunities to learn about the benefits of the JWOD Program. By participating, contracting activity representatives have the opportunity to:

- Receive instruction in the mechanics of the JWOD Program;
- Talk to members of the nonprofit agency community and learn of capabilities that could be valuable to their agencies;
- Confer with other Federal agency representatives regarding their experiences with the Program at “Best Practices Sessions”; and
- Ask questions of NIB, NISH and the Committee regarding the operation of the JWOD Program.

Contracting activities can even arrange to have an exhibit to show nonprofit agencies the types of products and services procured by their agencies. Together, Federal and nonprofit agency personnel may identify a good candidate (product or service) for addition to the Procurement List. Conferences are held every year at a different location to attract attendees nationwide. Information about the next NIB conference can be obtained from www.nib.org or NIB’s Headquarters in Alexandria, Virginia, while www.nish.org or the NISH National Office in Vienna, Virginia, can provide information on the next NISH conference.

Frequently Asked Questions...

1. What Are the Advantages of Contracting Under JWOD?

Advantages to contracting under the JWOD Program include the provision of high-quality products or services, when needed and at a reasonable price. Adding products and services to the Procurement List reduces the contracting activity's administrative burden since periodic procurements are no longer necessary. Finally, there is the satisfaction of knowing that people who are blind or have other severe disabilities are able to lead more productive and independent lives, pay taxes, help support families, and join in the American work experience as a result of JWOD contracts.

2. Where Can I Find the Procurement List and What Are Some Examples of the Available Products and Services?

Many products and services included on the Procurement List are clearly identified in JWOD and its distributors' print and electronic catalogs, such as www.gsaadvantage.com and www.jwod.com. You may also view or download the complete Procurement List from the JWOD informational website www.jwod.gov. In addition, the Committee notifies the responsible contracting activity of all Procurement List additions, prices, price changes, and other actions affecting a particular product or service. The Committee is taking action to ensure that Procurement List products and services are identified in Federal automated procurement systems.

Nonprofit agencies vary widely in their interests and capabilities. Specific products include office products (pens, binder clips, paper products, etc.),

environmentally friendly cleaning supplies, military specific products (such as chemical protective overgarments, cold weather infantry kits, etc.), and medical supplies (such as the medic's field kit). Services include administrative services, call centers, commercial facility management, recycling, food service, laundry and grounds maintenance.

3. Where Do NIB and NISH Derive Their Responsibilities Under the JWOD Program?

The JWOD Act directs the Committee to designate one or more "central nonprofit agencies" to assist community-based nonprofit agencies serving people who have disabilities. These community-based organizations are participants in the JWOD Program. The Committee designated NIB and NISH to fulfill responsibilities as listed in 41 CFR Part 51-3. NIB and NISH are funded primarily through fees paid to them by nonprofit agencies on sales of JWOD products and services. The fee provides NIB and NISH with the resources necessary to accomplish their missions.

4. What Type of Documentation Should I Use to Contract or Place an Order Under the JWOD Program?

There is no need for a solicitation document for products or services on the Procurement List. The contracting document should, however, describe the product (and quantity) or service to be procured, the contract period, payment procedures, delivery schedule, applicable wage rates, and other information necessary for both sides to understand the details of the procurement.

5. Does the JWOD Program and/or Committee Have Priority Over All Other Suppliers to the Government?

The JWOD Program takes precedence over all other procurement preference programs with respect to services. Only Federal Prison Industries (FPI) has priority over the JWOD Program for products. This means the Committee can consider any service purchased by the Government for addition to its Procurement List. Products that the Government purchases can be considered after FPI gives clearance. FPI provides both full and partial waivers on particular products. Under an agreement with FPI, if FPI provides a full waiver for a product and the Committee places it on the Procurement List, FPI's priority is no longer in effect for that product. Thereafter the product must be purchased from the source designated by the Committee. If FPI provides a partial waiver, circumstances vary depending upon the nature of the waiver.

Within the JWOD Program, nonprofit agencies associated with NIB have priority over agencies associated with NISH for products. As a result, the Committee will not place a product on the Procurement List for provision by a NISH nonprofit agency unless NIB has agreed to the action. Both NIB and NISH nonprofit agencies have equal priority for services.

6. Are Government Purchase Card Users Exempt from Buying JWOD Products? What if the Purchase is Below \$2,500?

The requirement to buy JWOD products is universal and applies to any dollar amount. Government credit cardholders are—like all other Federal employees—required to buy JWOD products furnished by designated nonprofit agencies. Federal personnel should use credit cards to purchase

locally only if the products required are not available through the JWOD Program.

7. How Does the Federal Acquisition Streamlining Act of 1994 Affect the JWOD Program?

The statutory requirement to buy JWOD products continues under the Federal Acquisition Streamlining Act of 1994 (FASA). However, current emphasis on decentralized and more flexible procurement necessitates greater awareness of the JWOD Program among Federal customers. The JWOD Program is not waived, superseded or bypassed by any of the following FASA provisions:

- **Micropurchasing Authority:** Lifts many requirements on purchases under \$2,500, but does not exempt Federal employees from the legal requirement to buy JWOD products, regardless of how small the dollar value.
- **Permits “non-contracting” employees to use Purchase Cards,** but not to buy commercial products that are essentially the same as JWOD products.
- **Buying “Off the Shelf”:** Agencies are no longer required to buy unique, Government-specified products, but are not allowed to substitute commercial products for JWOD products.
- **Simplified Acquisitions under \$100,000:** Unlike some procurement laws, the JWOD Act remains applicable under this threshold.

8. Must Nonprofit Agencies Win a Contract Competitively Before Adding it to the Procurement List?

No. While the JWOD process includes procedures to ensure a fair market price, it does not include any requirement or provision for competitive bidding. After all necessary measures have been taken and

requirements met, the Committee then decides whether to add the product or service to the Procurement List. If the product or service is added, future purchases (i.e., after any current contract, including options, for the product or service expires) must be made from the nonprofit agency(ies) approved by the Committee.

9. Can Nonprofit Agencies Bid Competitively on Federal Contracts?

Nonprofit agencies serving people with severe disabilities are in a unique position. Nonprofit agencies that contract with the Federal Government do so through the JWOD Program because of the stability and longevity that JWOD jobs offer to their employees. However, nonprofit agencies are also eligible to participate in Federal contracting through other means.

Nonprofit agencies may participate in the unrestricted, competitive bidding process under the same terms and conditions as other commercial offers. Once awarded a contract, the nonprofit agency may then propose the product or service for addition to the Procurement List.

10. Do NIB and NISH Provide Technical Assistance to Nonprofit Agencies that Desire to Bid Competitively on Small Business or Other Contracts?

Both NIB and NISH will help their associated nonprofit agencies in any way that they can to create employment for people with severe disabilities. As a result, they are providing some assistance in developing projects even if they are not for the JWOD Program. However, nonprofit agencies cannot bid on small business set-aside contracts as they technically do not meet the definition of a small business.

11. Can Requirements that Are Currently Set Aside for and Being Performed By Small Businesses Be Added to the Procurement List?

Yes. Requirements set aside for small businesses and being performed by small business firms may be added to the Procurement List for future provision by a nonprofit agency under the JWOD Program.

Both the Javits-Wagner-O'Day and Small Business Acts created preferential programs designed to provide certain types of organizations opportunities to participate in Federal contracting. However, the two pieces of legislation differ in that the JWOD statute makes it mandatory for Government entities to procure products designated by the Committee. The Small Business statute gives the contracting agency discretion as to whether there will be a small business set-aside (Comptroller General Decision, Files B-185802 and B-187235, March 11, 1977, 77-1 CPD 184). The contracting activity also has discretion in deciding whether a particular procurement will be set aside for labor surplus areas or for small and disadvantaged businesses. The JWOD Act (41 U.S.C. 46-48c) gives no such discretion to the contracting activity.

12. Can Requirements that Are Currently Set Aside Under the 8(a) Program Be Added to the JWOD Procurement List?

The law permits it, and such requirements are added to the Procurement List while being provided by an 8(a) contractor. However, the Committee has voluntarily adopted a policy that allows SBA to continue to contract with the current 8(a) contractor for such requirements until that contractor graduates

from the 8(a) Program. Upon the contractor's graduation, the mandatory requirements of the JWOD Act take effect. This policy does not apply to competitive 8(a) procurements.

13. What is "Severe Adverse Impact?"

"Severe Adverse Impact" is a factor the Committee considers in determining whether a product or service is suitable for addition to the JWOD Program. It is a measure of impact such an addition would have on the current contractor for that product or service. The decision to place a product or service in a new procurement category, such as the JWOD or 8(a) Program, may have an adverse impact on the firm that currently supplies the product or service. The question is, "Is such impact severe?" The Committee defines severe adverse impact as the level of impact that might weaken the business base of the contractor to the extent that the firm's viability could be jeopardized. Such a level of impact is not acceptable to the Committee. If the Committee determines that severe adverse impact might result from a proposed addition, the product or service in question may be dropped from consideration. Sometimes the Committee places only a portion of the Government requirement for a particular product or service on the Procurement List to avoid having a severe adverse impact on the current contractor. Products and services dropped from consideration due to impact concerns may be re-evaluated at a later date.

14. Is the JWOD Program Covered by A-76?

Office of Management and Budget (OMB) Circular A-76 addresses the contracting out of services currently being performed by Government employees. The Circular recognizes preferential procurement programs and is not intended to interfere with the contracting activity's efforts to

make awards under mandatory source programs such as JWOD. A formal cost comparison is not required for such awards.

When a new requirement for a commercial service is established, the service may be added to the Procurement List for performance by a nonprofit agency under the JWOD Program without a formal A-76 cost comparison. As new requirements arise, contracting activities may wish to consider offering them to NISH or NIB.

15. Does the Competition in Contracting Act Inhibit the Use of the JWOD Program?

No. Because the JWOD Program is a statutorily mandated source, JWOD procurements are considered "other than competitive" procurements under the Competition in Contracting Act (CICA). Also, CICA specifically exempts JWOD procurements from the justification requirement, which normally applies to other than competitive procurements (10 U.S.C. 2304 (f)(2)(D) or 41 U.S.C. 253 (f)(2)(D)).

16. Can a Contracting Activity Establish a Contract with the Nonprofit Agency During the Addition Process?

Yes, if permitted by Federal Acquisition Regulations. Contracting activities are cautioned not to use JWOD (41 U.S.C. 46-48c) as justification on a contract or on a determination and findings (D&F). Provision of products and services by nonprofit agencies under the authority of the JWOD Program cannot take place until after the effective date of addition to the Procurement List. The Committee alone is authorized to establish the fair market price for a JWOD product or service, and proposed additions under JWOD are not legally binding until approved by the Committee.

17. Can Contracting Activities Request that “One-Time Requirements” Be Designated for Nonprofit Agencies?

Products and services produced under the JWOD Program are generally ones for which a continuing need exists. These projects allow uninterrupted employment for people who are blind or have other severe disabilities. However, the Committee recognizes that although “one-time requirements” do not offer long-term stable employment opportunities, they often serve as useful training vehicles. For this reason, the Committee will sometimes approve “one-time requirements.” A stipulation for such consideration is that the project should generate enough work years (normally at least ten) of direct labor to make the addition worthwhile. Federal personnel should contact the Committee, NIB or NISH to explore the feasibility of adding a particular one-time requirement to the Procurement List.

18. Does the Committee Ever Place a Portion of the Total Government Requirement for a Product on the Procurement List?

Yes. Occasionally, the Committee will add only a portion of the Government’s requirement for a particular product or service to the Procurement List. This approach is normally followed when taking the entire Government requirement would have a severe adverse impact on the current contractor. This is also the case when the Government’s requirements exceed the capability of the nonprofit agency or agencies proposing to provide the product or service. Under such circumstances, a portion of the requirement is obtained through the JWOD Process, while the remaining portion is competitively procured from commercial sources. The Committee has outlined specific guidelines for processing additions of this type, and considers the contracting activity’s views prior to adopting such an approach.

19. How Long Does the Addition Process Take?

The time it takes to complete the addition process can vary depending on several factors that may need to be considered before adding a product or service to the Procurement List. Once NIB or NISH identifies a product or service for possible addition to the Procurement List, the addition process can take between six and nine months to finalize. However, the Committee’s portion of the addition process takes about 90 days from the time the proposed addition is published in the Federal Register to the effective date of the addition.

20. When are Prices for JWOD Products Changed?

Product prices are usually changed annually. As with some commercial products that have volatile raw materials, the contracting activity and nonprofit agency may include an economic price adjustment clause in the contract that could result in more frequent price changes.

By September 2000, all prices will be determined by negotiation between the producing nonprofit agency and the contracting activity. The method of determining future prices will be a part of those negotiations and may include price adjustment based on changes in the appropriate U.S. Department of Labor Producer Price Index, use of another appropriate index, or changes in the nonprofit agency’s costs.

21. When are Service Prices Changed?

Services are repriced annually. The Committee’s normal pricing policy is to set a base year price and four follow on year prices. By January 2001, the pricing of all services will be done by direct negotiation between the contracting activity and the nonprofit agency performing the service. Federal

personnel are responsible for initiating the follow-on year pricing process. The process begins by forwarding (1) a copy of the new Department of Labor Wage Determination, (2) a completed SF 98/98a, and (3) a copy of the Statement of Work to the nonprofit agency and NIB or NISH. The documents must be received at least 90 days before the beginning of the new service period. Submitting these documents in a timely manner allows the establishment of a revised price prior to the commencement of the new service period.

22. Can I Recommend Products and/or Services for Addition to the Procurement List?

Yes. The Code of Federal Regulations (41 CFR Part 51-5.1(a)) encourages those involved with procurement to recommend products and services that appear suitable for procurement by the Government from nonprofit agencies under the JWOD Program. Recommendations should be sent to the Committee, NIB, or NISH.

23. How are Protests, Disputes and Appeals Handled Under the JWOD Act?

Either NIB or the appropriate NISH regional office should be contacted immediately whenever there is a disagreement between a contracting office and nonprofit agency over the terms or conditions of a JWOD contract. These central nonprofit agencies will assist in finding a satisfactory solution. If the disagreement cannot be resolved, the matter is referred to the Committee's staff for resolution. The contracting officer(s) decides questions that relate to interpretation of contract provisions unless they are in conflict with the JWOD Act or regulations.

24. Is the JWOD Program Really Necessary in Light of the 1990 Enactment of the Americans with Disabilities Act (ADA)?

Yes. The landmark ADA legislation assures basic civil rights for people with disabilities, including the provision of reasonable accommodations by employers. While it is already making a difference in the lives of people with disabilities, it does not assure jobs for all people with disabilities who want to work. The unemployment rate among such individuals remains exceedingly high. Moreover, the vast majority of people with disabilities employed under the JWOD Program are not currently capable of competitive employment. Consequently, they are not now in a position to benefit from the ADA's reasonable accommodations provision. It is expected, however, that many JWOD employees will obtain work skills as a result of their JWOD jobs and, therefore, be able to take advantage of opportunities made available because of the American with Disabilities Act.

25. How Does the Committee for Purchase From People Who Are Blind or Severely Disabled Relate to or Differ from the President's Committee on Employment of People with Disabilities?

The President's Committee on Employment of People with Disabilities (PCEPD) is a nonstatutory body created by Executive Order to assist people with disabilities seeking employment. PCEPD is tasked with promoting the hiring of people with disabilities by the private sector. PCEPD specializes in information about job accommodations for people with disabilities and implementation of the Americans with Disabilities Act (ADA). Except for its own administrative staff, PCEPD does not directly

create jobs; rather, it stimulates the private sector to create them.

The Committee for Purchase From People Who Are Blind or Severely Disabled is an independent Federal Agency. The Committee administers the Javits-Wagner-O'Day (JWOD) Program, a Government procurement initiative that creates jobs and training for people who are blind or have other severe disabilities. Its primary means of doing so is to have Federal agencies purchase products and services furnished by state and private nonprofit agencies that provide employment, training and, often, other services to individuals with severe disabilities. While the JWOD Program encourages people with disabilities to transition into competitive jobs, it has less direct contact with other types of private employers.

26. Do JWOD Products and Services Meet the Requirements for Recycled Content and Other Environmentally Preferable Attributes as Mandated in Executive Order 13101: Greening the Government through Waste Prevention, Recycling and Federal Acquisition?

The JWOD Program is committed to furnishing products and services that Federal customers demand in terms of both quality and performance. Additionally, as a Federal agency, we must also ensure that JWOD products and services comply with Federal mandates, including environmental initiatives. JWOD paper products meet General Service Administration (GSA) and Environmental Protection Agency (EPA) specifications and guidelines for recycled content, including postconsumer material content. Meanwhile, NIB and NISH technical experts, along with participating associated nonprofit agencies, are constantly reviewing JWOD offerings to ensure compliance with the requirements of Executive Order 13101.

27. Can Nonprofit Agencies Meet Government's Electronic Commerce/ Electronic Data Interchange (EC/EDI) Requirements?

Many nonprofit agencies have embraced EC technologies and are successfully interfacing with the Government procurement agencies by receiving and acknowledging orders through EDI or POPS methods.

28. How do DoD Prime Contractors Get Credit for Working with JWOD Nonprofit Agencies?

Defense Logistics Agency Clause DLAD 52.215.9004 (Dec. 1997) stems from DLA PROCLTR 97-34, the second in a series of guidance letters on supporting the JWOD Program. DLA was looking for innovative ways to work with the JWOD Program and to "provide JWOD agencies a maximum practicable opportunity to participate as subcontractors." Please note that subcontracting with JWOD is encouraged, not required. JWOD subcontractors are easiest to envision in terms of a facilities management contractor that subcontracts with a JWOD agency for janitorial or groundskeeping services; or an industrial prime vendor (integrator) that subcontracts with JWOD manufacturing agencies for certain products needed. Contractors may also subcontract with a JWOD agency for temporary administrative services or website development/maintenance (several JWOD agencies have capabilities in both areas.) Or JWOD agencies can provide other services, such as copy center and mailroom services, warehousing and distribution, data entry, food service, recycling, laundry, etc. DoD contractors may also purchase JWOD-produced office or cleaning supplies from one of our authorized commercial distributors.

More Information is Available From:

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

1421 Jefferson Davis Highway
Jefferson Plaza 2
10th Floor, Room 10800
Arlington, Virginia 22202-3259
Telephone: 703-603-7740
FAX: 703-603-0655
www.jwod.gov

National Industries for the Blind:

Headquarters

1901 North Beauregard Street, Suite 200
Alexandria, Virginia 22311-1727
Telephone: 703-998-0770
FAX: 703-998-8268
www.nib.org

Technical Center

13665 Lakefront Drive
Earth City, Missouri 63045-1401
Telephone: 314-739-8005
FAX: 314-739-0841

Customer Service Hotline

800-433-2304

NISH:

Headquarters:

2235 Cedar Lane
Vienna, Virginia 22182-5200
Telephone: 703-560-6800
FAX: 703-849-8916
www.nish.org

East Regional Office

2236-C Gallows Road
P.O. Box 686
Dunn Loring, VA 22027-9998
Telephone: 703 560-6610
FAX: 703-849-8741

South Regional Office

60 Chastain Center Boulevard, Suite 66
Kennesaw, GA 30144
Telephone: 770-424-9093
FAX: 770-426-7666

North/Central Regional Office

1400 East Touhy Avenue, Suite 140
Des Plaines, IL 60018
Telephone: 847-699-8890
FAX: 847-699-0392

South/Central Regional Office

2701 Avenue E, East, Suite 402
Arlington, TX 76011
Telephone: 817-649-5419
FAX: 817-652-1032

West Regional Office

73 Ray Street
Pleasanton, CA 94566
Telephone: 925-417-6880
FAX: 925-417-6888

Northwest Regional Office

200 West Mercer, Suite E
Seattle, WA 98119
Telephone: 206-285-6160
FAX: 206-285-8558