



OFFICE OF THE UNDER SECRETARY OF DEFENSE
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February 23, 2005

ACQUISITION
TECHNOLOGY
AND LOGISTICS

MEMORANDUM FOR DIRECTORS OF THE DEFENSE AGENCIES
DEPUTY ASSISTANT SECRETARY OF THE ARMY (POLICY
AND PROCUREMENT), ASA (ALT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION MANAGEMENT), ASN(RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/ACQ
DEPUTY DIRECTOR FOR LOGISTICS (DLA)
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, ARMY CONTRACTING AGENCY

SUBJECT: Contracting with Employers of Persons with Disabilities

The purpose of this memorandum is to bring to your attention a recently enacted statutory provision that prescribes whether the Javits-Wagner-O' Day Act (41 U.S.C. 46 et seq., JWOD) or the Randolph-Sheppard Act (R-SA) (20 U.S.C. 107 et seq.) applies to certain contracts for the operation of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces. The R-SA requires that a priority be given to blind persons licensed by a State agency for the operation of vending facilities on Federal property. The JWOD Act requires Government agencies to purchase selected products and services from qualified nonprofit agencies employing people who are blind or otherwise severely disabled.

Section 853 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. No. 108-375) repeals section 852 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. No. 108-136) and protects the status quo for contracts awarded to either a JWOD source or to an R-SA State licensing agency if the contract was entered into before September 30, 2005 and either is in effect on September 30, 2005, or was in effect on November 24, 2003. A copy of section 853 is attached.

If you have any questions regarding the Department's policies or procedures for doing business in accordance with the R-SA and the JWOD Act, please contact Ms. Susan Schneider at (703) 614-4840.

Deidre A. Lee
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated



SEC. 853. CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

(a) **INAPPLICABILITY OF RANDOLPH-SHEPPARD ACT TO MESS HALL SERVICES UNDER EXISTING JAVITS-WAGNER-O'DAY ACT CONTRACTS-** (1) The Randolph-Sheppard Act (20 U.S.C. 107 et seq.) does not apply to any contract described in paragraph (2) for so long as the contract is in effect, including for any period for which the contract is extended pursuant to an option provided in the contract.

(2) Paragraph (1) applies to any contract for the operation of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces that--

(A) was entered into before September 30, 2005, with a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely handicapped in compliance with section 3 of the Javits-Wagner-O'Day Act (41 U.S.C. 48); and

(B) either--

(i) is in effect on such date; or

(ii) was in effect on November 24, 2003.

(b) **INAPPLICABILITY OF JAVITS-WAGNER-O'DAY ACT TO MESS HALL SERVICES UNDER EXISTING RANDOLPH-SHEPPARD ACT CONTRACTS-** (1) The Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.) does not apply to any contract described in paragraph (2) for so long as the contract is in effect, including for any period for which the contract is extended pursuant to an option provided in the contract.

(2) Paragraph (1) applies to any contract for the operation of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces that--

(A) was entered into before September 30, 2005, with a State licensing agency under the Randolph-Sheppard Act (20 U.S.C. 107 et seq.); and

(B) either--

(i) is in effect on such date; or

(ii) was in effect on November 24, 2003.

(3) In this subsection, the term 'State licensing agency' means an agency designated under section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107a(a)(5)).

(c) **REPEAL OF SUPERSEDED LAW-** Subsections (a) and (b) of section 852 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1556) are repealed.