



**DEFENSE LOGISTICS AGENCY**  
**HEADQUARTERS**  
**8725 JOHN J. KINGMAN ROAD, SUITE 2533**  
**FT. BELVOIR, VIRGINIA 22060-6221**

IN REPLY  
REFER TO

**DEC 10 1997**

**MMP**  
**PROCLTR 97-34**

**MEMORANDUM FOR PROCLTR DISTRIBUTION LIST**

**SUBJECT: Ensuring Adequate JWOD Participation in DLA's New Business Initiatives**

This is the second in a series of PROCLTRs reemphasizing our strong commitment to certain socioeconomic programs and techniques, and providing the context and considerations to contracting officers for their expanded use. As part of the coordinated reengineering of DLA's business practices, we must explore ways of developing Javits-Wagner-O'Day Act (JWOD) entities (i.e., qualified nonprofit agencies employing people who are blind or severely disabled) into valued partners in our new business arrangements. This PROCLTR is intended to encourage you to identify approaches and remove constraints to JWOD participation, including participation in DLA prime vendor arrangements. It also includes an evaluation factor to incentivize other contractors to use qualified nonprofit agencies employing people who are blind or severely disabled as subcontractors for supplies and services, specifically beyond those situations where use of a JWOD entity is already statutorily mandated. Finally, it urges you to extend technical assistance and expertise, as appropriate, to establish, maintain, and facilitate JWOD agencies' participation in the DLA "E Mall," electronic catalogs, and other virtual inventory arrangements.

*We are primarily interested in your devising innovative ways to involve JWOD entities as you shift to commercial practices. Naturally, not all approaches will have equal merit, and there may be situations when it is more feasible for these agencies to be included than others. Use of JWOD agencies should not be limited to awards made on a statutorily mandated basis. A JWOD source should be considered in the same manner and to the same extent as any other offeror for the full range of DLA's business endeavors. This potentially encompasses their use as prime vendors, as well as their inclusion as subcontractors under these arrangements. You should also consider ways in which these entities could be partnered with other businesses and agencies in opportunities to diversify revenue production. Such innovative ideas are integral to any attainment of DLA's objective, to provide JWOD agencies a maximum practicable opportunity to participate as subcontractors. To promote this objective, we have established a new evaluation factor which will more favorably evaluate offerors who propose new business opportunities for these entities as subcontractors beyond the latter's provision of those items for which JWOD entities are already a mandatory source. Performance on prior contracts in subcontracting with and assisting JWOD entities should also be used as an element of past performance evaluation in subsequent source selection decisions. In providing JWOD entities increased opportunity to participate in our new business arrangements, you are encouraged to consider*



innovative contracting relationships. For example, GSA recently arranged a partnership with Staples and other retailers to sell JWOD-produced office supplies in their outlets. This is the kind of relationship you should be exploring. Additionally, as stated in our earlier Mentoring Business Agreements (MBA) PROCLTR, JWOD entities may serve as mentors, or be "tutored" as proteges, under that program. Beyond "brainstorming" ways in which JWOD activities may achieve full partnership with DLA in new business strategies, we ask that you share your plans with us and the other buying activities. Ensuring adequate JWOD participation in DLA's new business initiatives is a DLA-wide goal.

This letter should not be construed as lessening or eliminating the mandatory use of the nonprofit agencies for the blind or severely disabled as the supply source for all items included on the Procurement List (defined in FAR 8.701), including the flow-down of this requirement to prime contractors when they purchase supply items for Government use, in accordance with the Javits-Wagner-O'Day Act, 41 U.S.C. secs. 46 - 48c. Applicable policy and priorities are contained in FAR sections 8.001 through 8.003; Subpart 8.7; and clause 52.208-9.

The Attachment contains the applicable new DLAD 4105.1 coverage at Parts 8, 15, 16, 52, and 90. Existing coverage in Subpart 8.7 which did not adequately reflect this support of JWOD entities has been removed. The Attachment presents DLAD Subpart 8.7 coverage in its entirety.

This PROCLTR is effective immediately, and will expire upon incorporation of the attached coverage into the DLAD, but in any event not later than one year from the effective date of this letter. Questions may be addressed to Ms. Mary Massaro, MMPPP, at (703) 767-1366 (DSN 427-1366), or via Internet message to the following address: [mary\\_massaro@hq.dla.mil](mailto:mary_massaro@hq.dla.mil).

Attachment



**ROBERT L. MOLINO**  
**Executive Director**  
**(Procurement)**

**SUBPART 8.7 - ACQUISITION FROM NONPROFIT AGENCIES EMPLOYING PEOPLE WHO ARE BLIND OR SEVERELY DISABLED**

**8.702 General.**

(90) *It is DLA policy **not only** to cooperate fully with the Committee for Purchase from People Who Are Blind or Severely Disabled (the Committee), its Central Nonprofit Agencies (CNAs) (namely, the National Industries for the Blind (NIB) and NISH - formerly, the National Industries for the Severely Handicapped ), and the individual nonprofit agencies (previously known as workshops and/or work centers) in accordance with statutory mandates, but also to provide the maximum practicable opportunity by which these Javits-Wagner-O'Day Act (JWOD) entities may become full partners in DLA's reengineered business processes at either the prime or subcontract level.*

(91) *Contractor participation in a program of support for JWOD entities shall be the focus of an evaluation factor to be included in solicitations or other announcements for contracting arrangements which use source selection procedures. The contracting officer shall use an evaluation factor encouraging the maximum practicable use of JWOD entities as subcontractors (i.e., beyond statutorily mandated use of these entities by prime contractors; see FAR 8.001(c)). This factor shall apply to all source selections where the resultant contract is expected to exceed \$500,000, unless omission is approved by the chief of the contracting office. (Inclusion of this coverage in solicitations below \$500,000, though optional, is encouraged in all appropriate circumstances.) Proposals that demonstrate a strong commitment to affording JWOD entities a real opportunity to participate in the Government contracting arena, including prime vendor and virtual prime vendor arrangements, shall be rated more favorably than those that demonstrate little or no such commitment. See 15.605(b)(1)(94).*

(i) *The contracting officer should consult with the local office of counsel prior to making this evaluation factor more important than other socioeconomic factors, to ensure that it does not displace any other factors required by statute or overall DoD policy.*

(92) *In making decisions whether to exercise options on contracts, the contracting officer shall evaluate whether a firm has or has not performed in accordance with its commitment to use of JWOD entities. Field elements of the Defense Contract Management Command shall be used to assist in assessing a contractor's compliance with these requirements.*

(93) *See 15.605(b)(1)(94)(ii) for the prescription for use of solicitation provisions 52.215-9004, Javits-Wagner-O'Day Act Entity Proposal, and 52.215-9005, Javits-Wagner-O'Day Act Entity Support Evaluation.*

(94) *For applicable contract actions, the contracting officer shall provide incentives for prime contractors to subcontract with JWOD entities, even when they are not statutorily obligated to do so. These include:*

(i) *evaluation of current or proposed participation in this program of support for JWOD as*

***an independent factor (separate from any overall past performance evaluation factor) in source selection;***

***(ii) use of JWOD entities under previous contracts as part of the overall past performance evaluation factor in source selection;***

***(iii) evaluation of present performance regarding subcontracting with JWOD entities in determining placement of orders under multiple-award contracts; and/or***

***(iv) consideration of contractor present and past performance with reference to JWOD entities in the exercise of options for the follow-on years of long-term contracts.***

***(95) In order for determinations to be made regarding the efficacy and viability of this coverage, each contracting activity shall, ten days after the end of each fiscal quarter, submit a report to MMPPP indicating the percent change in the extent of non-mandatory prime contractor support (i.e., percent of total subcontracting dollars) for JWOD entities.***

## SUBPART 15.6 - SOURCE SELECTION

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### 15.605 Evaluation factors.

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(b)(1)(91) To implement the evaluation criteria contained in DFARS 215.605(b)(2)(A)(2)(i)-(iv) and (vi), the contracting officer shall establish an evaluation factor for the extent of an offeror's proposed use of small, small disadvantaged and women-owned small businesses in order to incentivize offerors to subcontract with such concerns. The weight or relative order of ranking of this factor is at the discretion of the contracting officer, but this factor may not be combined with any other factor. This factor is separate and distinct from the subcontracting plan (FAR 19.219-9) and is also separate and distinct from the MBA factor (see (b)(1)(92)) *or the factor to promote use of Javits-Wagner-O'Day Act (JWOD) entities (see (b)(1)(94))*. All offerors, both small and large businesses, shall be scored/rated on this factor. Proposals that demonstrate a strong commitment to affording small, small disadvantaged, and women-owned small businesses a real opportunity to participate, shall be rated more favorably than those that demonstrate little or no such commitment.

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*(b)(1)(94) The contracting officer shall also establish an evaluation factor for the extent of an offeror's proposed use of Javits-Wagner-O'Day Act (JWOD) qualified nonprofit agencies for the blind or other severely disabled, in order to incentivize offerors to subcontract with such concerns. (See 8.702.) The weight or relative order of ranking of this factor is at the discretion of the contracting officer, but this factor may not be combined with any other factor. This factor is separate and distinct from both the socioeconomic evaluation factor described in (b)(1)(91), above, and also from the MBA factor (see (b)(1)(92), above). All offerors, both small and large businesses, shall be scored/rated on this factor. Proposals that demonstrate a strong commitment to affording JWOD entities a real opportunity to participate in the Government contracting arena (beyond the statutorily mandated use of these entities by prime contractors; see FAR 8.001(c)) shall be rated more favorably than those that demonstrate little or no such commitment.*

*(b)(1)(94)(i) In making decisions whether to exercise options on contracts, the contracting officer shall evaluate whether a firm has or has not performed in accordance with its commitment to use of JWOD entities. Field elements of the Defense Contract Management Command shall be used to assist in assessing a contractor's compliance with these requirements.*

*(b)(1)(94)(ii) Solicitation provisions. Solicitation provisions similar to the ones at 52.215-9004, Javits-Wagner-O'Day Act Entity Proposal, and 52.215-9005, Javits-Wagner-O'Day Act Entity Support Evaluation, shall be included in all solicitations that meet the criteria in 15.605(b)(1)(94).*

***(b)(1)(94)(iii) Contract clause. A clause substantially the same as the one at 52.215-9006, Javits-Wagner-O'Day Act Entity - Contractor Reporting, shall be included in each contract for which the successful offeror submitted a JWOD entity subcontracting proposal with its offer.***

## SUBPART 16.5 - INDEFINITE-DELIVERY CONTRACTS

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### **16.504 Indefinite-quantity contracts.**

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(4)(iv) Consideration of past performance in order placement decisions shall include success in implementation of proposed socioeconomic support programs (see 15.605(b)(1)(91)), performance in carrying out Mentoring Business Agreement proposals (see 19.90 *and* 15.605(b)(92)), *and support of Javits-Wagner-O'Day Act (JWOD) qualified entities (see 15.605(b)(1)(94))*. Solicitations shall so state in the explanation of order placement criteria (FAR 16.504(a)(4)(iv)).

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**PART 52**

**SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**52.215-9004 Javits-Wagner-O'Day Act Entity Proposal.**

*As prescribed in 15.605 (b)(1)(94)(ii), insert the following or similar provision:*

**JAVITS-WAGNER-O'DAY ACT ENTITY PROPOSAL (DEC 1997) - DLAD**

*(a) Provide a description of the efforts your company will make to assure that Javits-Wagner-O'Day Act (JWOD) qualified nonprofit agencies for the blind or other severely disabled will have equal opportunity to compete for subcontracts under any resulting contract. Describe your current and proposed range of services, supplies, and any other support that will be provided to you by JWOD concerns. Include specific names of such subcontractors, to the extent they are known.*

*(b) Describe any future plans your company has for developing additional subcontracting possibilities for JWOD entities, or ways in which these entities could be partnered with other businesses and agencies in opportunities to diversify revenue production, during the contract period.*

*(c) Specify what proportion of your proposal, as a percentage of dollars, will be subcontracted to JWOD entities.*

*(d) You shall be required to submit periodic progress reports (no less frequently than annually) to the contracting officer regarding your subcontracting efforts relative to JWOD entities. Specify what type of performance data you will accumulate and provide to the contracting officer regarding your support of JWOD entities during the period of contract performance. Provide the name and title of the individual principally responsible for ensuring company support to such entities (generally, this is the individual responsible for subcontracting with small, small disadvantaged, and women-owned small businesses).*

*(End of provision)*

**52.215-9005 Javits-Wagner-O'Day Act Entity Support Evaluation.**

*As prescribed in 15.605(b)(1)(94)(ii), insert the following or a similar provision:*

**JAVITS-WAGNER-O'DAY ACT ENTITY SUPPORT EVALUATION (DEC 1997) - DLAD**

*The Javits-Wagner-O'Day Act (JWOD) Entity Proposal provided by the offeror under 52.215-9004 will be evaluated on a comparative basis among all offerors. An offeror that*

*proposes or demonstrates a higher percentage, complexity level, and variety of participation by JWOD qualified nonprofit agencies for the blind or other severely disabled as subcontractors beyond those items for which JWOD entities are the mandatory source generally will receive a higher rating on this factor during the source selection process. Offerors' proposals for such support will be made a part of any resulting contract for use in determining how well the contractor has adhered to its plan. This plan will be monitored by the cognizant Defense Contract Management Command activity as a means of assisting the contracting officer in determining how well the contractor has in fact performed. This determination will be one factor used in the placement of orders against multiple-award contracts and/or the exercise of options in the contract's follow-on years (as applicable). Performance on prior contracts in subcontracting with and assisting JWOD entities will be used as an element of past performance evaluation in subsequent source selection decisions.*

*(End of provision)*

*52.215-9006 Javits-Wagner-O'Day Act Entity Support - Contractor Reporting.*

*As prescribed in 15.605 (b)(1)(94)(iii), insert the following clause:*

***JAVITS-WAGNER-O'DAY ACT ENTITY SUPPORT - CONTRACTOR REPORTING  
(DEC 1997) - DLAD***

*The contractor shall submit periodic progress reports (no less frequently than annually) to the contracting officer regarding the contractor's subcontracting efforts relative to JWOD entities. There is no standard or prescribed format for this requirement; however, performance data accumulated and reported by the contractor must be as specified in its offer.*

*(End of clause)*

## SUPPLEMENTAL PROCEDURES

### SUBPART 90.11 - ACQUISITION PLANNING

#### 90.1101 Contents of written acquisition plans.

(b)(4) Contracting considerations. Discuss applicability of socioeconomic requirements, e.g., small business set-asides, 8(a), and minority-owned business, *empowerment contracting*, and results of discussions with Small and Disadvantaged Business Utilization representatives. *Also consider use of such sources as Javits-Wagner-O'Day Act- (JWOD-) qualified agencies for the blind or other severely disabled.* Discuss any pertinent foreign purchase/sales matters. Discuss applicability of progress payments, economic price adjustments, bid guarantees, or performance bonds.

## SUPPLEMENTAL PROCEDURES

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