OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

October 10, 2003

DPAP/P

MEMORANDUM FOR DIRECTORS, 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: Applicability of the Javits-Wagner-O'Day (JWOD) Program and the Randolph-Sheppard (RS) Act

The purpose of this memorandum is to clarify the procurement relationship between products and services available from the Committee for Purchase From People Who Are Blind or Severely Disabled (JWOD Act) and the Randolph-Sheppard (RS) Act operation of vending facilities (including cafeterias and mess halls). Specifically, there is a provision in the Federal Acquisition Regulation that requires contracting officers to give effect to both statutory schemes in the same procurement.

The purpose of the JWOD Act is to provide employment for those who might otherwise not be able to make a living. The JWOD Act requires that a significant percentage of workers at JWOD facilities or under JWOD programs must be disabled. By contrast, the RS Act requires that a priority be given to blind persons licensed by a State agency for the operation of vending facilities on Federal property. However, while the RS Act provides entrepreneurial opportunities to blind vendors to own and operate their own businesses, it does not place any requirements on the RS licensees with respect to the staffing of the facility.

Today's acquisition environment supports contracts that utilize both RS and JWOD resources. In May 1998, changes were made to 41 CFR 51-5.2(e), Mandatory Source Requirement, to state "contracting activities procuring services which have included within them services on the Procurement List shall require their contractors for

the larger service requirement to procure the included Procurement List services from nonprofit agencies designated by the Committee." Subsequently, the Federal Acquisition Regulation (Sections 8.001, 8.003, 44.202-2 and 52.208-9) was amended on December 18, 2001 to make corresponding changes relating to preferences for award of subcontracts under service contracts to nonprofit workshops designated under the JWOD Act. Based upon the foregoing, solicitations for the operation of vending facilities must contain a contract requirement that the prime contractor subcontract with JWOD for any JWOD listed product or service. Because this requirement applies to all prime contractors for vending facilities, it is consistent with the priority under the RS Act.

By requiring blind vendors receiving contracts for the operation of cafeterias or mess halls at Department facilities to hire staff under JWOD, this requirement has the desired effect of recognizing the statutory purposes of both JWOD and the RS Act. Your continued support of both JWOD and the RS Act is extremely important to the Department and vital to the recognition and achievements of people with disabilities.

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

Deidre A. Lee
Director, Defense Procurement
and Acquisition Policy