



## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

703-603-7740  
FAX 703-603-0655

Jefferson Plaza 2, Suite 10800  
1421 Jefferson Davis Highway  
Arlington, Virginia 22202-3259

Operations Memorandum No. 22

Subject: Guidance on the Addition of Co-Branded Products to the Procurement List

Effective Date: October 1, 2006

### 1. PURPOSE

The purpose of the co-brand initiative is to provide the Federal customer with the choice of one or more nationally-recognized branded products in addition to, or in lieu of, an “essentially the same” (ETS) generic product, within the bounds of the Javits-Wagner-O’Day (JWOD) Program. Expanded choice will foster customer satisfaction, consistent with the JWOD Program Strategic Plan. Such choice should also increase the volume of products sold under the JWOD Program, thereby maintaining or creating employment opportunities for people who are blind or severely disabled. The products are co-branded so that the Federal customer not only recognizes the national brand name, but readily identifies the item as being furnished under the JWOD Program.

In 1995, the Committee approved the first, general co-brand concept and an approach to establishing partnerships with manufacturers of nationally-recognized brand name products that were already being purchased by Federal customers. These partnerships were permitted with up-front, open competition between interested manufacturers, the selection of one or more with whom to develop products for proposed addition to the Procurement List, and re-competition after a multi-year period of preferred purchasing status for the resulting co-branded products.

This memo codifies and expands the Committee’s guidance for co-branding regarding:

- Regulatory parameters and related Memoranda
- Definition and Scope
- Committee Approval
- Structure of Relationship
- Timing
- Competition and Recompetition
- Pricing

An Independent Agency of the United States Government Established by the Javits-Wagner-O’ Day Act. **JWOD**



## 2. REGULATORY PARAMETERS

- a. In addition to the guidelines herein, co-brand agreements must comply with the Committee's Subcontracting regulations at 41 CFR 51-4.4 (Attachment 1) and the Committee's Operations Memorandum #21 on Subcontracting (Attachment 2).
- b. Products proposed for addition to the Procurement List as co-branded items must fulfill a specified contracting activity's requirement, and must meet all of the Committee's regulatory Suitability Criteria at 41 CFR 51-2.4 (Attachment 3) in order to be approved by the Committee.

## 3. DEFINITION AND SCOPE

- a. **Co-brand:** For the purposes of the JWOD Program, a co-brand is comprised of a commercial nationally-recognized brand name (or occasionally, a regionally-recognized brand name) **and** the JWOD Program's name and/or the SKILCRAFT® brand name (licensed by National Industries for the Blind) on any product that is either proposed for addition or has previously been added to the Procurement List.
  - i. Includes use of the commercial brand name in the title or description of the item, and/or on the physical product itself and/or its packaging.
  - ii. The relationship between the commercial brand name company and the nonprofit agency designated to furnish the product is considered a subcontract, and must comply with all rules for subcontracting under the JWOD Program (41 CFR 51-4.4 and Memorandum #21).
- b. **Scope:** Commercial products with significant market share and brand equity may be proposed for the co-brand initiative for a limited or broad Government requirement by the Central Nonprofit Agency(ies), subject to meeting the Committee's suitability criteria.
  - i. The scope of any proposed co-branding agreement will be identified by the CNA and posted on the FedBizOpps.gov web site by the Committee staff, clearly describing the types of products that may be included under any resulting agreement.
    1. Selection of a brand name company for one product line does not enable products outside that product line to be added during the lifetime of the agreement, without a separate competition.
  - ii. Any resulting Procurement List addition will specify the Contracting Activity and the portion of the Government's requirement covered.
  - iii. Formal, signed co-brand agreements in existence at the time of this memorandum's publication will continue to exist under the agreed-upon terms and conditions until their expiration, then will come into

alignment with the parameters herein.

- c. **Purchasing preference:** A case-by-case decision will be made by the Committee as to whether a co-branded product on the Procurement List will be considered “essentially the same” (ETS) to other brands sold commercially, with respect to JWOD purchasing preference.
  - i. The CNA will submit an analysis and recommendation regarding the ETS status of the product in the context of its product category.

#### 4. COMMITTEE APPROVAL OF SUBCONTRACT RELATIONSHIPS

a. Co-brand relationships for current or future Procurement List items are subject to Committee oversight, in accordance with the Committee’s regulations at 41 CFR 51-4.4, as by definition they are considered subcontracts.

- i. In accordance with 41 CFR 51-4.4(a), multi-year contracts for materials or components used in the provision of Procurement List items must be reviewed and approved by Committee staff prior to the nonprofit agency’s signature on a subcontracting agreement.
- ii. All proposed multi-year agreements should be transmitted to the Committee staff’s Information Management department, who will route internally for review and requested approval.
- iii. Evaluation criteria will include the extent to which the proposed agreement maximizes labor for people who are blind or severely disabled.
  - 1. Proposed agreements and projects shall demonstrate the creation of at least one full-time equivalent work year for people who are blind or severely disabled. The Committee may consider projects below this threshold if there is a written justification that the Committee finds acceptable.
  - 2. The Committee expects co-brand agreements to involve value-added direct labor in some part of the co-brand product’s manufacturing process. Projects and/or agreements that do not go beyond labeling or simple packaging will not be approved.
  - 3. The Committee staff encourages the agreements to include enclave or competitive employment positions for people who are blind or severely disabled within the co-brand firm’s facility.
- iv. The Committee supports the letter and spirit of the Trade Agreements Act (19 U.S.C. 2501 et seq.) and will request justification for proposed agreements with companies whose materials or components are manufactured in non-member countries.

#### 5. STRUCTURE OF RELATIONSHIP

- a. The approved co-brand relationship assumes a traditional prime contractor/subcontractor form, with the NPA as prime and the commercial

firm as subcontractor, and the terms must be in put writing, to include:

- i. The length of the agreement,
- ii. The responsibilities of the parties, and
- iii. An indication that the agreement is valid only after the products are added to the Procurement List.

## **6. TIMING**

- a. As noted in Section 4.a.(i) above, prior to signature, the Committee must approve the proposed written co-branding agreement.
  - i. The CNA may expect a response from the Committee within 10 working days.
- b. The competition and selection of a brand name subcontractor must be completed before the proposed addition for a new product is submitted to the Committee staff for review. For current Procurement List products, a brand name subcontractor may be competitively selected at any time, following the procedures in this memorandum.

## **7. COMPETITION**

- a. Competition is the cornerstone of the co-brand initiative. The initiative requires fair and transparent competition for the co-brand partner through the Committee's posting of an announcement in FedBizOpps listing the specific product or product family sought and appropriate selection criteria (see Appendix A for template).
- b. Notwithstanding the explicit requirement of 41 CFR 51-4.4(b) to maximize competition with other nonprofit agencies and small businesses, the co-branding initiative acknowledges that in order to meet the objective of joining with a nationally-recognized commercial brand, large businesses may apply, and it is possible that a large business may best fit the criteria.
- c. The CNAs' assignment and allocation processes will address the overlap between existing Procurement List products and any proposed co-branded product.
  - i. The CNA with the assignment will determine to what extent a proposed co-branded product will be essentially the same to an existing Procurement List product, and which nonprofit agency(ies) will receive the assignment for the co-branded product.
  - ii. The CNA will determine and specify at the time the FedBizOpps notice is to be posted whether there will be one brand or multiple brands within a particular product family.
    1. It will be possible to have multiple brands in the same product category on the Procurement List, particularly to address

premium versus economy positions in the market, or to provide a bio-based or environmentally preferable option.

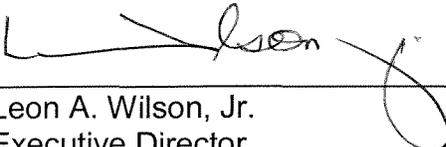
- d. Selected brand name companies may be offered co-branding agreements for a minimum of three (3) years and a maximum of five (5) years for the product/product family specified, before re-competition is required.
- e. It is recommended, but not required, that a debriefing be provided (orally or in writing) at the end for unsuccessful commercial brand name applicants.

## 8. RE-COMPETITION

- a. The standard period of time before it is necessary to re-compete the position of commercial brand name provider is five (5) years. The re-competition process will be identical to the initial competition with an announcement and selection criteria published on the FedBizOpps.gov web site.
  - i. The recompetition should take place during the last year of the current co-branding agreement to avoid an interruption in supply.
  - ii. The selection criteria may be revised based on lessons learned from the previous competition and relationship.
  - iii. The incumbent brand name provider may be granted an additional five option years based on pre-established performance criteria, up to a maximum 10-year relationship before re-competition.

## 9. PRICING

- a. The Committee establishes the Fair Market Price for all JWOD items, in accordance with its regulations at 41 CFR 51-2.7.
- b. The co-brand initiative is intended to provide access to nationally recognized brand name products at the same price Federal customers would pay to buy the branded products from other retail sources. The Procurement List addition and nonprofit agency's value-added should not result in a price that exceeds the competitive range of retail prices determined by the Committee.

  
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Leon A. Wilson, Jr.  
Executive Director

09/21/06  
\_\_\_\_\_  
Date

Attachment 1: 41 CFR 51-4.4

Attachment 2: Operations Memorandum #21 Subcontracting

Attachment 3: 41 CFR 51-2.4

Appendix: Template for Selection Criteria and FedBizOpps Notice

Attachment 1

CODE OF FEDERAL REGULATIONS  
TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT  
Revised as of October 14, 2003  
CHAPTER 51—COMMITTEE FOR PURCHASE FROM  
PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

51-4.4 Subcontracting

(a) Nonprofit agencies shall seek broad competition in the purchase of materials and components used in the commodities and services furnished to the Government under the JWOD Act. Nonprofit agencies shall inform the Committee, through their central nonprofit agency, before entering into multiyear contracts for materials or components used in the commodities and services furnished to the Government under the JWOD Act.

(b) Each nonprofit agency shall accomplish the maximum amount of subcontracting with other nonprofit agencies and small business concerns that the nonprofit agency finds to be consistent both with efficient performance in furnishing commodities or services under the JWOD Act and maximizing employment for persons who are blind or have other severe disabilities.

(c) Nonprofit agencies may subcontract a portion of the process for producing a commodity or providing a service on the Procurement List provided that the portion of the process retained by the prime nonprofit agency generates employment for persons who are blind or have other severe disabilities. Subcontracting intended to be a routine part of the production of a commodity or provision of a service shall be identified to the Committee at the time the commodity or service is proposed for addition to the Procurement List and any significant changes in the extent of subcontracting must be approved in advance by the Committee.

(d) A nonprofit agency may not subcontract the entire production process for all or a portion of an order without the Committee's prior approval.



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Arlington, Virginia 22202-3259

Operations Memorandum No. 21

**Subject: Guidance on Nonprofit Agency Establishment of Subcontract Relationships for  
Current or Potential Procurement List Projects**

**Effective Date: May 1, 2006**

**1. PURPOSE**

During a Central Nonprofit Agency's (CNA) or nonprofit agency's (NPA) assessment of its ability to furnish a product, service or collection of the same to a Federal customer under the Javits-Wagner-O'Day (JWOD) Program, it often identifies a need to engage one or more subcontractors to provide raw materials or supplies, or to contribute technical, professional or specialized skills that may be lacking in the current JWOD-participating organization(s). The CNA or NPA may find that it requires such subcontractor(s) to assist in demonstrating full capability when developing a new business opportunity, and/or it may require such subcontractor(s) to maintain a current Procurement List (PL) project.

This memorandum provides guidance on the procedures to be followed by CNAs and NPAs when seeking and establishing subcontracts with commercial firms or nonprofit agencies to assist them in fulfilling JWOD contract requirements.

This memorandum includes clarification of and guidance for:

- Regulatory parameters for subcontracting;
- Definitions and scope;
- Requesting Committee approval of subcontract relationships;
- The timing for entering into subcontracts;
- Appropriate levels of competition and re-competition; and
- Structure of the resulting subcontract relationship.

**2. REGULATORY PARAMETERS**

a. In addition to the guidelines herein, subcontracts to fulfill requirements that have been placed on the PL must comply with the Committee's Subcontracting regulations at 41 CFR 51-4.4 (Attachment 1).



b. Unless otherwise specified by the Committee's regulations, the subcontract relationship and product(s) or service(s) delivered to the Federal Government must comply with all applicable requirements of the Federal Acquisition Regulations (FAR).

### 3. DEFINITION AND SCOPE

a. **Subcontracting.** Subcontracting is defined by the Committee as any acquisition from another source of materials or services required by the nonprofit agency(ies) to provide a Procurement List product or service allocated under the JWOD Program. The JWOD Act requires all procurements to be between the Government and the Committee-designated nonprofit agency, establishing the nonprofit agency in prime contractor status.

- i. Although the term "partnering" is often used colloquially to refer to any cooperative relationship between two or more parties, the Committee's regulations do not recognize partnerships or joint ventures as valid relationships for the performance of contracts under the JWOD Program.
- ii. Likewise, "sourcing" or similar terminology may be used to refer to seeking competitive quotes routinely and making a best value determination on a per case basis, versus establishing a longer-term supplier relationship. This type of business relationship also meets the subcontracting definition used in the FAR and adopted by the Committee.

b. **Scope.** The Committee understands that virtually every product or service furnished under the JWOD Program requires some purchase of raw materials, supplies and/or technical services from other sources. The Committee's subcontracting guidance applies to all JWOD contracts where a subcontract as defined above exists.

- i. The Committee's primary concerns are to ensure fair, transparent and appropriate selection of subcontractors, and to ensure that work intended to be performed by people who are blind or severely disabled is not later assigned to nondisabled business entities.
- ii. The Committee's reporting and advance approval requirements apply only to multiyear agreements and to changes (other than de minimis changes, not to exceed five percent of direct labor or dollar value) to the extent of subcontracting on existing Procurement List projects. See Attachment 2 for a summary as to when a new or modified subcontract agreement must be submitted to the Committee staff for approval prior to signature, and/or when a change in subcontractor status must be reported to the Committee staff.

### 4. COMMITTEE APPROVAL OF SUBCONTRACT RELATIONSHIPS

a. All subcontract relationships on JWOD Program contracts are subject to Committee oversight, in accordance with the Committee's regulations at 41 CFR 51-4.4.

- b. In accordance with 41 CFR 51-4.4(a), multiyear contracts for materials or components used in the provision of Procurement List items must be reviewed and approved by Committee staff prior to the nonprofit agency's signature on a subcontracting agreement.
- i. This requirement applies to raw materials used in manufacturing projects, semi-finished materials that are used in assembly or packaging projects, supplies used in the provision of service projects that comprise a significant share of the contract value, and/or labor purchased to fulfill service requirements.
  - ii. Such proposed multi-year agreements should be transmitted to the Committee's Information Management department, who will forward to appropriate staff members for review and requested approval.
- c. Routine subcontracting of part of the production or performance process must be identified to the Committee when the item is proposed for addition to the Procurement List. Any departure from the extent of subcontracting described in the addition package and Vote Letter must be approved in advance by the Committee staff in accordance with 41 CFR 51-4.4(c).
- i. If the subcontract is initiated, or if an existing subcontract undergoes more than de minimis changes (i.e., changes in excess of five percent of direct labor or dollar value) after the Procurement List addition is approved -- particularly if there is a resulting change in the suitability factors such as direct labor, ratio and/or pricing -- the staff may seek the Committee members' review and reconsideration of the suitability criteria.
  - ii. Changes in the socioeconomic status of the subcontractor must be reported to the Committee staff within 30 days.
- d. Under no circumstances may a CNA or NPA subcontract an entire requirement, contract or order, without prior written Committee staff approval, in accordance with 41 CFR 51-4.4(d).

## 5. TIMING

- a. A CNA or NPA may compete and select a subcontractor at an early stage in the development process. It is not necessary for the CNA or NPA to have a specific requirement already on the Procurement List before competing and selecting the subcontractor. However, there must be enough information about the subcontract opportunity to allow for clear definition of the supplies and/or services sought, and to allow for an open, fair and transparent selection process.
- b. As noted above in Section 4(b), whether negotiated in advance of a Procurement List addition, or for an existing Procurement List project, any multiyear agreements

with subcontractors must be approved by the Committee prior to the nonprofit agency's signature on a subcontracting agreement.

- c. As noted above in Section 4(c), before a nonprofit agency changes the extent of subcontracting for any requirement that has been added to the Procurement List, it must seek approval from the Committee staff prior to signing and finalizing the modified subcontract arrangement, in accordance with 41 CFR 51-4.4(c).
  - i. In particular, if the change involves subcontracting of materials or labor that was not identified in the Vote Letter upon which the Committee members based their suitability decision, the new information and its impact on direct labor, pricing, etc. must be evaluated and approved by Committee staff, before signature.
  - ii. If the data supporting the suitability criteria are significantly different from the status at the time of addition as a result of the new or modified subcontract, the Committee members' reconsideration may be sought at the staff's discretion.

## 6. COMPETITION

- a. Consistent with the Committee's regulations at 41 CFR 51-4.4(b), CNAs and/or NPAs shall first seek to maximize subcontracts with other nonprofit agencies employing people who are blind or severely disabled, to the extent practicable. In subcontracting to other JWOD-participating nonprofit agencies, the responsible CNA(s) will allocate the work in accordance with the Committee's regulations and the CNAs' internal procedures. It is not necessary for the CNA or NPA to seek competition when using their standard allocation process. However, if allocation or re-allocation affects the fair market price, the Committee staff must review and approve the change.
- b. If subcontracting with other nonprofit agency(ies) is not feasible, CNAs and/or NPAs shall seek small business subcontractors, to the maximum extent practicable. Such businesses are defined by the Small Business Administration at [www.sba.gov/size](http://www.sba.gov/size). If subcontracting with other CNAs/NPAs or small businesses is not feasible, subcontracts with large businesses may be sought.
- c. The Committee's regulations at 51-4.4(a) and (b) require broad competition to the maximum extent practicable. It is assumed, unless otherwise demonstrated, that competitive sources exist in the marketplace and will be sought to ensure the best possible subcontract arrangement for the ultimate Federal customer.
  - i. If no competition is held because there is only one subcontractor that can provide the item or service, the CNA/NPA must support this conclusion. The CNA/NPA shall not enter into an agreement with the subcontractor until it obtains the Committee's approval.
  - ii. If more than one potential subcontractor exists, the CNA/NPA must hold a competition for the opportunity through a fair and transparent process.

It is recommended, but not required, that such a process include a debriefing at the end for unsuccessful offerors, particularly if the contract exceeds the Simplified Acquisition Threshold.

- iii. The broad practical standard of competition can be met by soliciting at least three offers from within the local trading area, provided that the approach to competition is practical and that there are sufficient local firms to meet the requirement. Any such procurement must be as transparent as possible, with disclosed evaluation factors. NPAs will make available, upon request, an appropriate written document detailing the rationale for the selection.
- iv. When a subcontractor must have nationwide capability, a full and open competition is encouraged. The CNA or NPA may solicit through on-line business exchange sites and/or in appropriate national business or news publications, or in trade/industry journals. If all members of a particular industry are known to the CNA/NPA, they may be contacted directly. The NPA shall provide a solicitation, with an appropriate Statement of Work (SOW)/Performance Work Statement (PWS), with evaluation instructions and criteria to potential offerors.
- v. A technical and cost evaluation will be used to select the subcontractor. If factors such as technology, geography, capacity, etc. require the selection of more than one subcontractor, a pool of subcontractors may be established. At the discretion of the CNA/NPA, this pool may be maintained for up to five years before a re-compete is required, or it may be dissolved after award.
- vi. The source selection criteria shall include an appropriate weighted factor that gives credit to any offeror that makes a good faith effort to hire people who are blind or severely disabled. To earn such credit, the offeror must submit a written plan to the nonprofit agency, including a proposed measurement system, and the plan must be acceptable to the CNA/NPA. The offeror may be asked to orally brief this plan.

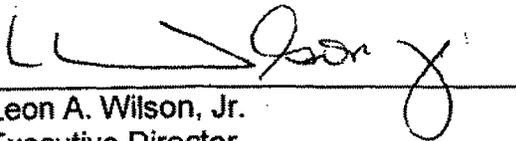
## **7. RE-COMPETITION**

Generally, the CNA or NPA must be able to show competition for the subcontractor at least every five (5) years. The CNA/NPA should conduct an annual assessment of the subcontractor's performance to ensure value is maintained. The nature of the re-competition, as well as justification for any sole source selections, is identical to the guidelines above for first-time competitions.

## **8. STRUCTURE OF RELATIONSHIP**

Upon selection, the contract would assume a traditional prime/subcontractor form, with the NPA as prime and the commercial firm as subcontractor. All subcontracting will comply with 41 CFR 51-4.4.

- a. Any sizable subcontract or subcontract for work that could eventually be performed by people with disabilities should include a written transition plan to provide more of the direct labor hours to people with disabilities in the future.
- b. It is recommended that subcontract relationships encourage second tier subcontracts or purchasing from small businesses.

  
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Leon A. Wilson, Jr.  
Executive Director

02/15/06  
\_\_\_\_\_  
Date

Attachment 1: 41 CFR 51-4.4

Attachment 2: Subcontracting Reporting and Approval Checklist

Attachment 1

CODE OF FEDERAL REGULATIONS  
TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT  
Revised as of October 14, 2003  
CHAPTER 51—COMMITTEE FOR PURCHASE FROM  
PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

51-4.4 Subcontracting

- (a) Nonprofit agencies shall seek broad competition in the purchase of materials and components used in the commodities and services furnished to the Government under the JWOD Act. Nonprofit agencies shall inform the Committee, through their central nonprofit agency, before entering into multiyear contracts for materials or components used in the commodities and services furnished to the Government under the JWOD Act.
- (b) Each nonprofit agency shall accomplish the maximum amount of subcontracting with other nonprofit agencies and small business concerns that the nonprofit agency finds to be consistent both with efficient performance in furnishing commodities or services under the JWOD Act and maximizing employment for persons who are blind or have other severe disabilities.
- (c) Nonprofit agencies may subcontract a portion of the process for producing a commodity or providing a service on the Procurement List provided that the portion of the process retained by the prime nonprofit agency generates employment for persons who are blind or have other severe disabilities. Subcontracting intended to be a routine part of the production of a commodity or provision of a service shall be identified to the Committee at the time the commodity or service is proposed for addition to the Procurement List and any significant changes in the extent of subcontracting must be approved in advance by the Committee.
- (d) A nonprofit agency may not subcontract the entire production process for all or a portion of an order without the Committee's prior approval.

## Attachment 2

### SUBCONTRACTING REPORTING AND APPROVAL SUMMARY

#### Note:

The Committee staff will accept reporting and requests for approval from Central Nonprofit Agencies (CNAs) and/or Nonprofit Agencies (NPAs) as required below in either electronic format (via email or eventually, via electronic submission to the Committee's Enterprise Architecture system) or in print form via U.S. mail, express delivery or facsimile.

CNAs and NPAs must obtain the Committee's prior approval before signing subcontract agreements when:

- The subcontract is a multiyear agreement
- The subcontract represents more than a de minimus change to an existing Procurement List project (e.g., there is a change in the nature of the goods purchased, or there is a change in the labor performed by a subcontractor.)
- The subcontract is for an entire order, contract or requirement that is on the Procurement List.

CNAs and/or NPAs must report to the Committee but not seek prior approval when:

- There is a change in the socioeconomic status of the subcontractor as identified at the time of Procurement List addition.

CNAs and/or NPAs are not required to report to the Committee or obtain approval when:

- The subcontract is for one year or less, after which it will be recompeted.
- The subcontract is awarded to a new vendor, but the extent of the goods purchased or labor performed remains consistent with that identified at the time of Procurement List addition, and the vendor is of the same socioeconomic status as that identified at the time of addition.

Attachment 3

CODE OF FEDERAL REGULATIONS  
TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT  
Revised as of October 14, 2003  
CHAPTER 51—COMMITTEE FOR PURCHASE FROM  
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§ 51-2.4 Determination of suitability.

(a) For a commodity or service to be suitable for addition to the Procurement List, each of the following criteria must be satisfied:

(1) *Employment potential.* The proposed addition must demonstrate a potential to generate employment for persons who are blind or have other severe disabilities.

(2) *Nonprofit agency qualifications.* The nonprofit agency (or agencies) proposing to furnish the item must qualify as a nonprofit agency serving persons who are blind or have other severe disabilities, as set forth in part 51-4 of this chapter.

(3) *Capability.* The nonprofit agency (or agencies) desiring to furnish a commodity or service under the JWOD Program must satisfy the Committee as to the extent of the labor operations to be performed and that it will have the capability to meet Government quality standards and delivery schedules by the time it assumes responsibility for supplying the Government.

(4) *Level of impact on the current contractor for the commodity or service.* (i) In deciding whether or not a proposed addition to the Procurement List is likely to have a severe adverse impact on the current contractor for the specific commodity or service, the Committee gives particular attention to:

(A) The possible impact on the contractor's total sales, including the sales of affiliated companies and parent corporations. In addition, the Committee considers the effects of previous Committee actions.

(B) Whether that contractor has been a continuous supplier to the Government of the specific commodity or service proposed for addition and is, therefore, more dependent on the income from such sales to the Government.

(ii) If there is not a current contract for the commodity or service being proposed for addition to the Procurement List, the Committee may consider the most recent contractor to furnish the item to the Government as the current contractor for the purpose of determining the level of impact.

(b) In determining the suitability of a commodity or service for addition to the Procurement List, the Committee also considers other information it deems pertinent, including comments on a proposal published in the Federal Register to add the commodity or service to the Procurement List and information submitted by Government personnel and interested persons. Because the Committee's authority to establish fair market prices is separate from its authority to determine the suitability of a commodity or service for addition to the Procurement List, the Committee does not consider comments on proposed fair market prices for commodities and services proposed for addition to the Procurement List to be pertinent to a suitability determination.

Appendix A – Template for Selection Criteria and FedBizOpps Announcement

PART: U. S. GOVERNMENT PROCUREMENTS

SUBPART: SUPPLIES, EQUIPMENT AND MATERIAL

CLASSCODE: [enter FSC]

OFFADD: Committee for Purchase from People Who Are Blind or Severely Disabled, 1421 Jefferson Davis Hwy., Jefferson Plaza 2, Suite #10800, Arlington, VA 22202-4302.

SUBJECT: [Enter FSC] – COMMERCIAL MANUFACTURER OF xxxxxxxx SOUGHT FOR PARTNERSHIP WITH A SELECTED NONPROFIT AGENCY PARTICIPATING IN THE JAVITS-WAGNER-O'DAY PROGRAM EMPLOYING PEOPLE WHO ARE BLIND OR HAVE OTHER SEVERE DISABILITIES.

SOL.CP-CBD-00/\_\_\_\_\_

DUE: \_\_\_\_\_

POC: [Committee staff to enter]

DESC: The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee), the Federal agency that oversees the Javits-Wagner-O'Day (JWOD) Program, is seeking a U.S. commercial manufacturer of xxxxxxxxxxxx, to partner with a selected nonprofit agency to furnish such products to the Federal Government under the JWOD Program. The products described must be [give type, format, etc.] and meet and/or exceed the FAR and other published Federal standards, including Executive Orders and applicable agency-unique requirements. To be considered for this commercial partner opportunity, the following criteria, at a minimum, must also be met:

- 1) Possession of a nationally-known brand name that can be demonstrated to have significant appeal through evidence of substantial sales and market share.
- 2) [Describe whether a full line of products is needed].
- 3) Willingness to enter into a multi-year agreement, which includes on-going technical and production assistance while enabling the selected nonprofit agency to meet the suitability criteria of the JWOD Program in the production process by [describe nonprofit agency's role in production process], thereby creating employment for people who are blind or severely disabled.
- 4) The chosen commercial manufacturer must be willing to set a high priority for delivering the bulk materials to the nonprofit agency in order to assure the agency of on-time deliveries to the end-use customers.
- 5) Commitment to working cooperatively with JWOD personnel to market the products to Government customers under the JWOD Program.

- 6) Willingness to work with the selected nonprofit agency, NIB or NISH and the Committee to ensure that the products' price to end-users is a fair and reasonable price.
- 7) [Applies to chemicals only] All products must be manufactured and lab tested, certified and customer tested to be effective according to their purpose, have current MSD sheets, and contain ingredients that are certified, meeting xxxxxx standards.
- 8) Manufacturers' submissions must demonstrate that the specific products meet the various criteria, as well as indicate what functions the nonprofit agency's employees would perform. Submissions should recommend ways to maximize the employment for people who are blind or severely disabled in the fulfillment of the products.

The deadline for response is [insert date 30 days from date of posting.]