

Dated: February 2, 2000.

Martha J. Ketelle,

Forest Supervisor.

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Committee for Purchase From People Who are Blind or Severely Disabled

Procurement List Proposed Additions

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

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 13, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202-4302.

FOR FURTHER INFORMATION CONTACT: Leon A. Wilson, Jr. (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are

invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Grounds Maintenance
Air National Guard Readiness Center
Andrews AFB, Maryland
NPA: Melwood Horticultural Training Center, Upper Marlboro, Maryland
Janitorial/Custodial
U.S. Customs Service
Office of Investigation, East and West Wings Building 50, JFK Airport
Jamaica, New York
NPA: Goodwill Industries of Greater New York and Northern New Jersey, Inc.
Astoria, New York
Mailroom Operation
U.S. Department of State
Office of Foreign Buildings Operations
1701 North Fort Myer Drive
Arlington, Virginia
NPA: Columbia Lighthouse for the Blind, Washington, DC

Leon A. Wilson, Jr.,

Executive Director.

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COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

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

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: March 13, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202-4302.

FOR FURTHER INFORMATION CONTACT: Leon A. Wilson, Jr. (703) 603-7740.

SUPPLEMENTARY INFORMATION: On November 29 and December 17, and 27, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 F.R. 66611, 70694 and 72312) of proposed

additions to and deletions from the Procurement List:

Additions

The following comments pertain to Janitorial/Custodial, The Library of Congress, Washington, DC for the following locations: James Madison Memorial, Thomas Jefferson Building, John Adams Building and Little Scholars Child Care Facility.

Comments were received from counsel for two companies: the current contractor for this service, and a new company whose president was until recently the president of the current contractor.

Both companies noted the impact on them of adding this service to the Procurement List, and questioned the capability of the nonprofit agency originally designated to perform the service. The second company also questioned whether this addition to the Procurement List met certain statutory requirements, and the role of a consultant to that nonprofit agency. This service is currently being procured under a small business set-aside, and the contracting officer has stated for the record that, if the Committee does not add the service to the Procurement List, the service will continue to be reserved for small businesses. The current contractor is no longer a small business, so it is not eligible for contracts for the service. Consequently, addition of this service to the Procurement List would not be the cause of any impact the current contractor suffers by not being able to provide the service, regardless of the size of the impact or any dependency the contractor has developed over the five years it has provided the service. Although the current contractor anticipates that its declining sales will return it to the small business category by 2001, the Committee does not consider such speculation as demonstrating severe adverse impact resulting from addition of a service to the Procurement List.

Unlike the current contractor, the other commenting company is a small business. It has not, however, been a current contractor for this service. Losing the ability to compete for the service is not considered by the Committee to constitute severe adverse impact on a company which has not developed a dependence on having the contract for the service.

The current contractor noted that loss of this service would require it to discharge a substantial number of its employees, who would collect unemployment benefits from the company, increasing its indirect rates and making it more difficult for the

company to offer competitive prices in the future. The Committee considers this impact on the company to be too speculative to constitute severe adverse impact. As for the company's employees, the Committee has authorized the nonprofit agency which will provide the service to phase in its workers with severe disabilities, preserving the jobs of the current workers while they seek employment elsewhere in the area, which is currently experiencing very low unemployment for workers without disabilities. In addition, a custodial corporation has offered to provide comparable employment opportunities, with similar pay and benefits, for workers displaced by this Procurement List addition.

On the basis of the Committee's response to a Freedom of Information Act request the current contractor filed early in the addition process, that contractor questioned whether this project would generate jobs for people with severe disabilities. The contractor also noted the lack of a technical or management proposal for the project, and other evidence addressing the capability of the nonprofit agency and its employees with disabilities to perform this service.

The Committee believes that the record now compiled fully supports the determination it has made that this service will eventually create approximately 58 work years of employment for people with severe disabilities. This record does include a technical proposal for the service. The nonprofit agency has been found capable of performing the service by the Committee based on assessments by the central nonprofit agency concerned and the contracting officer at the Library of Congress, who has reviewed and accepted the technical proposal.

Both commenters noted that the Library of Congress buildings, particularly the Jefferson Building, contain numerous antiques and ornamental items in their elaborate interiors, which require specialized cleaning techniques and expertise. Some of these features of the buildings, however, are not within the statement of work for the service, as cleaning them is the responsibility of the Architect of the Capitol. If other such features are beyond the capability of workers with disabilities to perform, they will be handled by those workers without disabilities which the Committee's statute permits the nonprofit agency to retain on the job.

The current contractor noted that 31 Federal janitorial/custodial services with Washington, DC addresses are

already on the Procurement List, some of them substantial in scope. The contractor claimed that it had been substantially impacted by some of these additions. The contractor also claimed that additional people with severe disabilities could be employed at these locations, making the addition of the service at the Library of Congress unnecessary to create jobs for these people.

The continued viability of the current contractor casts serious doubt on any contention that it has been severely impacted by previous Procurement List additions. As noted above, the current contractor would not be eligible for the next contract for this service at the Library of Congress, whether or not the Committee adds it to the Procurement List. Given the large number of people with severe disabilities in the Washington area who remain unemployed, the Committee believes there is a need to add the service at the Library of Congress to the Procurement List and thereby generate additional jobs for such individuals. Incremental addition of workers with severe disabilities to the janitorial/custodial services in Washington which have already been placed on the Procurement List will not fill this need. For the same reason, and given that the nonprofit agency has been found capable of providing the entire service, it would not be appropriate for the Committee to add just a portion of the service to the Procurement List, as the other commenter suggested.

The current contractor claimed that the fact that price proposals it reviewed show variation above and below the current price for the service shows that the nonprofit agency does not understand the work requirements for the service and thus cannot be considered capable of performing it. The Committee, however, considers these proposals to be evidence that the nonprofit agency and the Library of Congress were engaged in price negotiation, which is now the preferred method of setting a fair market price in the Committee's program, and not evidence of a lack of capability on the nonprofit agency's part.

The current contractor also claimed that the nonprofit agency must specifically identify the individuals with disabilities who will be employed on this service and demonstrate how these individuals are capable of performing the work involved in the service. The Committee does not consider this degree of specificity to be appropriate, given that commercial janitorial contractors do not so identify workers before beginning a project, and

does not require this level of detail from nonprofit agencies participating in its program.

The other commenter claimed that this service does not meet the Committee's statutory requirement that 75 percent of the direct labor for the service be performed by persons with severe disabilities. The commenter noted that the requirement must be met each year the nonprofit agency performs the services, so a phase-in of people with disabilities would not be permissible. Such a phase-in, according to the commenter, would also lower the nonprofit agency's overall disabled labor percentage below the level the statute requires. The commenter misunderstands the statutory direct labor requirement, which applies to a nonprofit agency's total direct labor, not to the labor used on a specific service. However, the commenter is correct that Ability Unlimited, Inc., the nonprofit agency originally proposed to perform this service, does not currently meet the total direct labor requirement. Another qualified nonprofit agency, The Chimes, Inc., which does meet the total direct labor requirement and has been found capable of providing this service, has been designated to replace Ability Unlimited as the service provider under the Procurement List for at least one year. If Ability Unlimited meets the total direct labor requirement at that time, the service will be transferred to it. The commenter also questioned whether the price established for the service is a true fair market price. The commenter assumed, in accordance with former Committee pricing policies, that the price was based on the current price for the service, which is being provided under a contractual arrangement which is now over five years old. However, in accordance with new Committee pricing policies, the price for this service was set by negotiation between the Library of Congress and the nonprofit agency. Such a price by its nature is a fair market price, as it is an agreement at this time between a knowledgeable buyer and a seller, without regard to the price of the previous contractual arrangement.

The same commenter also questioned the use by Ability Unlimited of a for-profit janitorial firm as a consultant and materials supplier for this service. The commenter claimed that this arrangement violates the statutory requirement that a nonprofit agency's net income not inure to any individual. The commenter also indicated that the consultant firm's performance record on another Government contract made its role in connection with this service inappropriate. Again, the commenter

misinterprets the Committee's statute. The statutory language the commenter mentioned is intended to assure that non-governmental participants in the Committee's program are nonprofit corporations. Ability Unlimited and The Chimes meet that requirement, as well as a Committee policy requirement designed to assure nonprofit status and organizational independence. The Committee has examined the relationship between Ability Unlimited and the for-profit consultant, and has received information from the president of the consultant firm that demonstrates that the firm will not profit from the relationship. In addition, the consultant's performance on its own janitorial contracts is not a dispositive factor in this instance because of the limited role the consultant would play in providing the service at issue. Furthermore, if Ability Unlimited fails to increase its total direct labor being performed by people with severe disabilities to the level required by the Committee's statute, it will not be performing this service at the Library of Congress under the Committee's program.

The following material pertains to the two services being added to the Procurement List: After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. The action will not have a severe economic impact on current contractors for the services.
3. The action will result in authorizing small entities to furnish the services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial

The Library of Congress, Washington, DC for the following buildings:
James Madison Memorial
Thomas Jefferson Building
John Adams Building
Little Scholars Child Development Center
Janitorial/Custodial
U.S. Coast Guard
Southwest Harbor Building
Southwest Harbor, Maine

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will not have a severe economic impact on future contractors for the commodities.
3. The action may result in authorizing small entities to furnish the commodities to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Paper, Tabulating Machine
7530-00-249-4847
7530-00-057-9487
Pad, Parachutists' Helmet
8470-01-092-8494

Leon A. Wilson, Jr.,

Executive Director.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-811]

Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation; Notice of Postponement of Final Determination in the Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 11, 2000.

FOR FURTHER INFORMATION CONTACT: Doreen Chen, Laurel LaCivita, or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0408, (202) 482-4243, and (202) 482-3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (1998).

Postponement of Final Determination

The Department received a request pursuant to section 735(a)(2) of the Act and 19 CFR 351.210(e)(2) to postpone its final determination to 135 days after publication of the Department's preliminary determination and to extend the imposition of provisional measures from a four-month period to not more than six months from respondent JSC Nevinnomyssky Azot, a producer/exporter of the subject merchandise.

In accordance with 19 CFR 351.210(b)(2)(ii), because (1) Our preliminary determination is affirmative, (2) the respondent requesting a postponement accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting respondent's request and are postponing the final determination to no later than May 22, 2000, which is 135 days after the publication of the preliminary determination. *See Notice of Preliminary Determination of Sales at Less than Fair Value: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation.* Suspension of