

§ 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.

[56 FR 48977, Sept. 26, 1991, as amended at 59 FR 59341, Nov. 16, 1994; 62 FR 66529, Dec. 19, 1997]

§ 51-2.5 Committee decision.

The Committee considers the particular facts and circumstances in each case in determining if a commodity or service is suitable for addition to the Procurement List. When the Committee determines that a proposed addition is likely to have a severe adverse impact on a current contractor, it takes this fact into consideration in deciding not to add the commodity or service to the Procurement List, or to add only a portion of the Government requirement for the item. If the Committee decides to add a commodity or service in whole or in part to the Procurement List, that decision is announced in the FEDERAL REGISTER with a notice that includes information on the effective date of the addition.

[59 FR 59342, Nov. 16, 1994]

§ 51-2.6 Reconsideration of Committee decision.

(a) The Committee may reconsider its decision to add items to the Procurement List if it receives pertinent information which was not before it when it initially made the decision. Unless otherwise provided by the Committee, requests for reconsideration from interested persons must be received by the Committee within 60 days following the effective date of the addition in question. A request for reconsideration must include the specific