

## § 51-4.5

### § 51-4.5 Violations by nonprofit agencies.

(a) Any alleged violations of these regulations by a nonprofit agency shall be investigated by the Committee which shall notify the nonprofit agency concerned and afford it an opportunity to submit a statement of facts and evidence. Pending a decision by the Committee, the central nonprofit agency concerned may be directed by the Committee to temporarily suspend allocations to the nonprofit agency.

(b) If a nonprofit agency fails to correct its violations of these regulations, the Committee, after affording the nonprofit agency an opportunity to address the Committee on the matter, may terminate the nonprofit agency's eligibility to participate in the JWOD Program.

[56 FR 48979, Sept. 26, 1991, as amended at 59 FR 59343, Nov. 16, 1994; 73 FR 28043, May 15, 2008]

## PART 51-5—CONTRACTING REQUIREMENTS

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SOURCE: 56 FR 48981, Sept. 26, 1991, unless otherwise noted.

### § 51-5.1 General.

(a) Contracting activities are encouraged to assist the Committee and the central nonprofit agencies in identifying suitable commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities so that the Committee can attain its objective of increasing employment and training opportunities for individuals who are blind or have other severe disabilities. For items which appear to be suitable to be furnished by nonprofit agencies, the contracting activity should refer the candidate commodities and services to the Committee or a central non-

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profit agency. If a contracting activity decides to procure one or more commodities which are similar to a commodity or commodities on the Procurement List, the contracting activity should refer the commodities it intends to procure to the Committee or a central nonprofit agency.

(b) Contracting activities shall provide the Committee and designated central nonprofit agencies with information needed to enable the Committee to determine whether a commodity or service is suitable to be furnished by a nonprofit agency. For commodities, information such as the latest solicitation and amendments, bid abstracts, procurement history, estimated annual usage quantities, and anticipated date of next solicitation issuance and opening may be needed. For services, similar information including the statement of work and applicable wage determination may be required. In order to assist in evaluating the suitability of an Office of Management and Budget Circular No. A-76 conversion, contracting activities should provide a copy of the draft statement of work and applicable wage determination to the central nonprofit agency upon its request.

### § 51-5.2 Mandatory source requirement.

(a) Nonprofit agencies designated by the Committee are mandatory sources of supply for all entities of the Government for commodities and services included on the Procurement List, as provided in § 51-1.2 of this chapter.

(b) Purchases of commodities on the Procurement List by entities of the Government shall be made from sources authorized by the Committee. These sources may include nonprofit agencies, central nonprofit agencies, Government central supply agencies such as the Defense Logistics Agency and the General Services Administration, and certain commercial distributors. Identification of the authorized sources for a particular commodity may be obtained from the central nonprofit agencies at the addresses noted in § 51-6.2 of this chapter.

(c) Contracting activities shall require other persons providing commodities which are on the Procurement

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List to entities of the Government by contract to order these commodities from the sources authorized by the Committee.

(d) Procedures for obtaining military resale commodities are contained in §51-6.4 of this chapter.

(e) 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.

[56 FR 48981, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991, as amended at 59 FR 59343, Nov. 16, 1994; 60 FR 54200, Oct. 20, 1995; 63 FR 16439, Apr. 3, 1998]

### **§51-5.3 Scope of requirement.**

(a) When a commodity is included on the Procurement List, the mandatory source requirement covers the National Stock Number or item designation listed and commodities that are essentially the same as the listed item. In some instances, only a portion of the Government requirement for a National Stock Number or item designation is specified by the Procurement List. Where geographic areas, quantities, percentages or specific supply locations for a commodity are listed, the mandatory provisions of the JWOD Act apply only to the portion or portions of the commodity indicated by the Procurement List.

(b) For services, where an agency and location or geographic area are listed on the Procurement List, only the service for the location or geographic area listed must be procured from the nonprofit agency, except as provided in §51-6.14 of this chapter. Where no location or geographic area is indicated by the Procurement List, it is mandatory that the total Government requirement for that service be procured from a nonprofit agency.

(c) When a commodity or service is added to the Procurement List, the addition does not affect contracts for the commodity or service awarded prior to the effective date of the Procurement

List addition or options exercised under those contracts.

[56 FR 48981, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991, as amended at 59 FR 59343, Nov. 16, 1994; 63 FR 16439, Apr. 3, 1998]

### **§51-5.4 Purchase exceptions.**

(a) A central nonprofit agency will normally grant a purchase exception for a contracting activity to procure from commercial sources commodities or services on the Procurement List when both of the following conditions are met:

(1) The central nonprofit agency or its nonprofit agency(ies) cannot furnish a commodity or service within the period specified, and

(2) The commodity or service is available from commercial sources in the quantities needed and significantly sooner than it will be available from the nonprofit agency(ies).

(b) The central nonprofit agency may grant a purchase exception when the quantity involved is not sufficient to be furnished economically by the nonprofit agency(ies).

(c) The Committee may also grant a purchase exception for the reasons set forth in paragraphs (a) and (b) of this section.

(d) The central nonprofit agency shall obtain the approval of the Committee before granting a purchase exception when the value of the procurement exceeds the simplified acquisition threshold set forth in the Federal Acquisition Streamlining Act of 1994 or any subsequent amendments thereto.

(e) When the central nonprofit agency grants a purchase exception under the above conditions, it shall do so promptly and shall specify the quantities and delivery period covered by the exception.

(f) When a purchase exception is granted under paragraph (a) of this section:

(1) Contracting activities shall initiate purchase actions within 15 days following the date of the purchase exception. The deadline may be extended by the central nonprofit agency with, in cases of procurements exceeding the simplified acquisition threshold, the concurrence of the Committee.

(2) Contracting activities shall furnish a copy to the solicitation to the