

rejection under section 112, first paragraph, not based on lack of utility for the claimed invention.

To be considered appropriate by the Office, any rejection based on lack of utility must include the following elements:

(a) *A prima facie showing that the claimed invention has no utility.*

A *prima facie* showing of no utility must establish that it is more likely than not that a person skilled in the art would not consider credible any specific utility asserted by the applicant for the claimed invention. A *prima facie* showing must contain the following elements:

(i) A well-reasoned statement that clearly sets forth the reasoning used in concluding that the asserted utility is not credible;

(ii) Support for factual findings relied upon in reaching this conclusion; and

(iii) Support for any conclusions regarding evidence provided by the applicant in support of an asserted utility.

(b) *Specific evidence that supports any fact-based assertions needed to establish the prima facie showing.*

Whenever possible, Office personnel must provide documentary evidence (e.g., scientific or technical journals, excerpts from treatises or books, or U.S. or foreign patents) as the form of support used in establishing the factual basis of a *prima facie* showing of no utility according to items (a)(ii) and (a)(iii) above. If documentary evidence is not available, Office personnel shall note this fact and specifically explain the scientific basis for the factual conclusions relied on in sections (a)(ii) and (a)(iii).

4. *A rejection based on lack of utility should not be maintained if an asserted utility for the claimed invention would be considered credible by a person of ordinary skill in the art in view of all evidence of record.*

Once a *prima facie* showing of no utility has been properly established, the applicant bears the burden of rebutting it. The applicant can do this by amending the claims, by providing reasoning or arguments, or by providing evidence in the form of a declaration under 37 CFR 1.132 or a printed publication, that rebuts the basis or logic of the *prima facie* showing. If the applicant responds to the *prima facie* rejection, Office personnel shall review the original disclosure, any evidence relied upon in establishing the *prima facie* showing, any claim amendments and any new reasoning or evidence provided by the applicant in support of an asserted utility. It is essential for Office personnel to recognize, fully

consider and respond to each substantive element of any response to a rejection based on lack of utility. Only where the totality of the record continues to show that the asserted utility is not credible should a rejection based on lack of utility be maintained.

If the applicant satisfactorily rebuts a *prima facie* rejection based on lack of utility under section 101, withdraw the section 101 rejection and the corresponding rejection imposed under section 112, first paragraph, per paragraph (3) above.

Office personnel are reminded that they must treat as true a statement of fact made by an applicant in relation to an asserted utility, unless countervailing evidence can be provided that shows that one of ordinary skill in the art would have a legitimate basis to doubt the credibility of such a statement. Similarly, Office personnel must accept an opinion from a qualified expert that is based upon relevant facts whose accuracy is not being questioned; it is improper to disregard the opinion solely because of a disagreement over the significance or meaning of the facts offered.

### III. Additional Information

The PTO has prepared an analysis of the law governing the utility requirement to support the guidelines outlined above. Copies of the legal analysis can be obtained from Jeff Kushan, who can be reached using the information indicated above.

Dated: July 3, 1995.

**Bruce A. Lehman,**

*Assistant Secretary of Commerce and  
Commissioner of Patents and Trademarks.*  
[FR Doc. 95-17304 Filed 7-13-95; 8:45 am]  
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### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### Procurement List; Additions

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

**ACTION:** Additions to 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.

**EFFECTIVE DATE:** August 14, 1995.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403,

1735 Jefferson Davis Highway,  
Arlington, Virginia 22202-3461.

**FOR FURTHER INFORMATION CONTACT:**  
Beverly Milkman (703) 603-7740.

**SUPPLEMENTARY INFORMATION:** On July 22, 1994, April 28, May 12 and 19, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (59 FR 37466, 60 FR 20971, 25695 and 26876) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services, fair market price, 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 does not appear to 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:

Administrative Services for the following locations:  
Fleet and Industrial Supply Center, San Diego, California  
Fleet and Industrial Supply Center, Long Beach, California  
Janitorial/Custodial for the following locations:  
Federal Building, 525 Water Street, Port Huron, MI  
Social Security Administration Building, 142 Auburn Street, Pontiac, MI  
Janitorial/Custodial, Carl Albert Federal Building and U.S. Courthouse, 301 E. Carl Albert Parkway, McAlester, Oklahoma  
Janitorial/Custodial, IRS Service Center Complex, Memphis, Tennessee

Parts Sorting, Defense Reutilization and Marketing Office, Barstow, California  
 Parts Sorting, Defense Reutilization and Marketing Office, Robins Air Force Base, Georgia

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

**Beverly L. Milkman,**  
*Executive Director.*

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BILLING CODE 6820-33-P

### 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 commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** August 14, 1995.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (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 commodities and 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 commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and 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 commodities and 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 commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

#### Commodities

Trap, Animal

3740-00-531-3905

NPA: ACT Corporation, Daytona Beach, Florida

Lancet, Finger Bleeding

Special Item #B-11

NPA: Lincoln Training Center and Rehabilitation Workshop, South El Monte, California

#### Services

Janitorial/Custodial, Defense Logistics Agency, Defense Fuel Region West, Building 100, San Pedro, California

NPA: Social Vocational Services, Inc., Torrance, California

Janitorial/Custodial, Pentagon Building, (First Floor, All Stairs and Stairwells, Elevators, Escalators, Defense Protective Service Structures and Corps of Engineers Modular Buildings), Washington, DC

NPA: Didlake, Inc., Manassas, Virginia

Janitorial/Custodial, Basewide, McGuire Air Force Base, New Jersey

NPA: Occupational Training Center of Burlington County, Mt. Holly, New Jersey

Laundry Service, Medical Center, Wright-Patterson Air Force Base, Ohio

NPA: Greene, Inc., Xenia, Ohio

Mailroom Operation, Internal Revenue Service, 55 Market Street, San Jose, California

NPA: VTF Services, Palo Alto, California

**Beverly L. Milkman,**

*Executive Director.*

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## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### Notice of Availability of a Finding of No Significant Impact (FONSI) for the Construction of an 18-hole Golf Course at Andrews Air Force Base, Maryland

The U.S. Air Force (USAF) is proposing the construction of an 18-hole golf course in accordance with the National Environmental Policy Act (NEPA) the Council on Environmental Quality regulations implementing NEPA, the Department of Defense Directive (DOD) 6050.1, and Air Force Instruction 32-7061. These directives require the USAF to consider environmental consequences when authorizing or approving federal actions.

The USAF has prepared an Environmental Assessment (EA) analyzing the potential environmental consequences of the proposed golf course construction.

On the basis of the EA, we conclude the implementation of the proposed action will not have a significant effect on the quality of the environment at Andrews Air Force Base and, as a result, an Environmental Impact Statement is not warranted.

Comments on this FONSI must be received on or before 16 Aug 95 and may be addressed to Lt Col Michael Newberry, 89 CES/CEV, 3465 North Carolina St, Andrews AFB, MD, 20331-4803, Telephone (301) 981-2579.

Documents are available for public review at Oxon Hill Public Library, 6200 Oxon Hill Rd, Oxon Hill, MD, Telephone (301) 839-2400.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 95-17286 Filed 7-13-95; 8:45 am]

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### Department of the Army

#### Army Science Board, Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee Meeting:

*Name of Committee:* Army Science Board (ASB).

*Date of Meeting:* 19 July 1995.

*Time of Meeting:* 0800-1700.

*Place:* Pentagon—Washington, DC.

*Agenda:* The Army Science Board's Ad Hoc Study on "ASB Space and Missile Defense Organization" will have its 7th meeting at the Pentagon. This meeting will be closed to the public in accordance with Section 552(b)(c) of Title 5, U.S.C., specifically