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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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Dear Mr. Mailliard:

This report is in response to your request of July 19, 1972, that the General Accounting Office consider a complaint by one of your constituents that setting aside products for purchase from workshops for the blind and other handicapped denies industry the opportunity to bid on Government purchases and results in higher costs to the Government than would be incurred if the products were purchased competitively.

Your constituent also included for consideration a position paper by the Office Products Manufacturers Association which indicated that workshops selling products to the Government under the Wagner-O'Day Act have unfair advantage over other suppliers because (1) the Government finances, sets up, and assists the workshops, (2) the Government pays the delivery costs for purchases from the workshops, and (3) the workshops can pay less than Federal minimum wages.

BACKGROUND

The Wagner-O'Day Act (41 U.S.C. 46), enacted June 25, 1938, created employment opportunities for the blind by requiring that Federal agencies satisfy their requirements for certain products by purchasing from nonprofit workshops for the blind. The presidentially appointed Committee on Purchases of Blind-Made Products, comprised of one private citizen and six representatives of Federal agencies concerned with using blind-made products, was made responsible for selecting products purchased from workshops and for determining the fair market prices for the products.

The act was amended, effective August 1, 1971 (1) to include services under the program, (2) to extend the program to workshops for handicapped persons other than the blind, (3) to change the name of the Committee on Purchases of Blind-Made Products to the Committee on Purchases of Products and Services of the Blind and Other Severely Handicapped and to revise its membership to include three private citizens and

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11 representatives of Federal agencies concerned with using products and services of workshops for the blind or other severely handicapped, and (4) to require that proposed additions or removals of program products and services be published in the Federal Register so that interested persons could present their views.

The Committee is responsible for selecting products and services suitable for purchase from workshops, for determining their fair market prices for revising the prices when market conditions warrant, and for designating nonprofit agencies to distribute Government orders among workshops. Products and services are set aside for purchase from designated workshops for indefinite periods during which other suppliers are not afforded the opportunity to bid on the Government's requirements.

During fiscal year 1972 ~~Government purchases from workshops~~ for the blind amounted to almost \$21 million. About 37 percent of the products made by these workshops were sold to the Government. The National Industries for the Blind is the nonprofit agency responsible for allocating Government orders among the workshops for the blind.

Various other nonprofit agencies have been designated to allocate Government orders among workshops for the other handicapped; however, as of September 30, 1972, the Committee had not set aside any products or services produced by these workshops. The Committee has estimated that during the next 2 to 3 years, approximately 250 to 300 additional workshops will come under the program, most of which will be workshops for the other severely handicapped.

We interviewed Committee, National Industries for the Blind, Department of Health, Education, and Welfare (HEW), Department of Labor, Defense Supply Agency (DSA), and General Services Administration (GSA) officials and held discussions with representatives of several Government suppliers. We also reviewed applicable Federal laws and regulations and examined selected records of the Committee and National Industries for the Blind concerning purchases from workshops.

PRICES PAID FOR PRODUCTS SET ASIDE

To determine the fair market prices of workshop products, Committee policy states that various factors be considered, including (1) the most recent prices the Government paid to competitively purchase the products, considering changes in material and labor costs, (2) the commercial prices of the same or similar products, (3) the quantities the Government purchased, (4) the differences between those products the Government purchased and those available commercially, and (5) the costs incurred by the workshops. The Committee has determined that the price established for a product need not be the lowest price which would be paid if the product was purchased competitively but that it should fall within the range of prices which would be proposed by different suppliers if the purchases were made competitively.

In establishing the prices paid to the workshops for the blind, the National Industries for the Blind submits to the Committee suggested prices which the Committee refers to DSA for analysis. The Committee expects to perform its own cost analyses when sufficient staff is obtained.

We reviewed DSA's cost analyses for 62 office products worth about \$2.5 million annually that were set aside between August 1, 1971, and August 31, 1972. We found that DSA used the most recent competitive bid prices offered to the Government as the primary measure of the reasonableness of the requested prices. For one product DSA also estimated the related delivery costs because it believed that these costs had a significant impact on the product's price.

For 10 office products, DSA recommended that the Committee establish prices lower than the last competitive prices; for six products, DSA recommended prices identical to the last competitive prices; and for 46 products, DSA recommended prices higher than the last competitive prices. For each product, DSA obtained from GSA an opinion of the reasonableness of the proposed prices because GSA had formerly purchased the products competitively. DSA concluded that the higher prices for the 46 products were reasonable because (1) they were within the range of the most recent competitive

bids received by GSA, (2) the cost data submitted by the National Industries for the Blind appeared reasonable, and (3) they were lower than established commercial prices for similar products.

2 Our review of the analyses made by DSA for the price increases approved between May and September 1972, covering 11 products--such as dust cloths and mopheads--already set aside showed that for each product the National Industries for the Blind had submitted to the Committee data regarding cost changes which had occurred after the last price had been established. In making its analyses, DSA considered the reasonableness of the costs and obtained from GSA or DSA's Defense Personnel Support Center an opinion on the prices that would be paid to purchase the products competitively. 107

In your constituent's letter, mention was made of the price increases in GSA's stock catalogs between 1968 and 1972 for ball point pens and refills and mechanical pencils that the Government purchased from workshops. The letter compared these price increases with price decreases during the same period for certain markers that the Government had purchased from commercial suppliers.

GSA purchases products from workshops at the prices established by the Committee and sells them to agencies at prices to cover its costs to purchase, stock, and distribute the products. The price changes made by GSA in its catalogs may be more or less than the changes in the prices paid to suppliers. For example, between 1968 and 1972, the GSA catalog price for fine point, ball point pens was raised to \$0.88 a dozen from \$0.60 a dozen, an increase of almost 47 percent, while the price paid to the workshops was raised to \$0.865 a dozen from \$0.726 a dozen, an increase of about 19 percent.

#### Ball point pens

Ball point pens and refills have been set aside for purchase from workshops for the blind since April 1968. During fiscal year 1972 Government purchases amounted to almost

\$4.4 million. The prices paid to the workshops between April 1968 and September 1972 for certain ball point pens and refills were as follows:

<u>Item</u>	<u>Price per dozen</u>			
	<u>Apr. 1968</u> to <u>Feb. 1970</u>	<u>Feb. 1970</u> to <u>Feb. 1971</u>	<u>Feb. 1971</u> to <u>Feb. 1972</u>	<u>Feb. 1972</u> to <u>Present</u>
Retractable pen, fine point	\$0.726	\$0.812	\$0.833	\$0.865
Nonretractable pens, fine point, black ink	0.625	0.701	0.720	0.756
Refills, fine point, black ink	0.341	0.387	0.395	0.423

We reviewed requests for price increases made by the National Industries for the Blind after April 1968 and found that they submitted to the Committee data on cost changes. DSA analyzed this data for the Committee and obtained comments from GSA on the reasonableness of the requested prices.

The National Industries for the Blind's cost data showed that workshop labor costs to produce ball point pens had increased by 34 percent from 1968. We found that the workshops' increases in wage rates were in accord with data developed by the Department of Labor regarding the average earnings of production employees in the writing- and marking-instrument industry.

The cost data regarding the components and other supplies for the ball point pens and refills indicated overall increases of between 9 percent and 21 percent from 1968. We found that the price increases the workshops experienced for several of the higher cost components used in ball point pens were similar to the price increases experienced by a supplier awarded a Government contract on a competitive basis to supply desk pen sets, containing similar ball point pens with the same components.

Thin lead mechanical pencils

On May 7, 1971, the Committee approved the addition of thin lead mechanical pencils to the list of products set aside for purchase from workshops at a price of \$0.24 each, the same as the last price at which these mechanical pencils had been purchased from a supplier on a competitive basis. Between October 1967 and August 1971 GSA's contracts with suppliers for thin lead mechanical pencils were awarded at the following prices.

<u>Period of Contract</u>		<u>Price</u>
<u>From</u>	<u>To</u>	
Oct. 1967	Aug. 1968	\$0.1333
Sept. 1968	Aug. 1969	0.1329
Sept. 1969	Aug. 1970	No award
Sept. 1970	Aug. 1971	0.24

Fine tip markers

On February 14, 1972, the Committee approved the addition of fine tip markers to the list of set aside products at a price of \$0.521 a dozen. Between September 1967 and August 1972, GSA awarded contracts to suppliers competitively at the following prices.

<u>Period of Contract</u>		<u>Price</u>
<u>From</u>	<u>To</u>	
Sept. 1967	Aug. 1968	\$0.816
Sept. 1968	Aug. 1969	0.76
Sept. 1969	Aug. 1970	0.61
Sept. 1970	Aug. 1971	0.5365
Sept. 1971	Aug. 1972	0.485

DSA had concluded that \$0.521 a dozen was a reasonable price because (1) the downward trend in prices experienced by the Government was not expected to continue, (2) the price proposed by the workshops was within the competitive bid prices offered to GSA in March 1971, and (3) the added costs

of transportation to be borne by the Government were not significant. A supplier who had previously sold these markers to the Government advised us that the fair market price that the Committee established represented a reasonable price for these markers but that the Government would have paid lower prices to purchase these markers competitively.

#### COMMITTEE CONSIDERATION OF INDUSTRY IMPACT

The act requires the Committee to publish in the Federal Register notices of intent to set aside products and services for purchase from workshops to give interested persons the opportunity to comment. The Committee must consider the impact of proposed set asides on commercial business. Between August 1, 1971, and September 30, 1972, the Committee published six notices in the Federal Register proposing to set aside various products and services. As of September 30, 1972, the Committee had approved the set aside of 19 types of products, including 10 types of office products.

For each of the office products set aside, the National Industries for the Blind or the Committee staff provided Committee members such information as (1) the amount of suppliers' sales that would be affected, (2) similar items which had already been set aside for purchase, (3) labor market conditions where the suppliers were located, and (4) the affect, if any, on suppliers who had received assistance from the Small Business Administration. Committee members also had the letters received in response to the notices published in the Federal Register and information calling their attention to factors which might affect suppliers unfavorably.

Committee members and National Industries for the Blind officials have also met with representatives of the office products industry to discuss the effect that setting aside certain office products would have on Government suppliers. One type of calendar pad stand was not set aside because of a possible unfavorable impact on a supplier.

OFFICE PRODUCTS MANUFACTURERS ASSOCIATION

In the Office Products Manufacturers Association's position paper which you forwarded to us, the Association stated that the suppliers had been unable to compete with the workshops because the workshops received direct financial assistance from the Government, the Government paid the delivery charges on purchases from workshops, and the workshops were permitted to pay less than Federal minimum wages.

Financial assistance

Under the Vocational Rehabilitation, Hill-Burton, and Mental Retardation Acts, financial grants are made by HEW to State vocational rehabilitation agencies to provide funds to workshops and rehabilitation facilities for such purposes as (1) purchasing lands, buildings, and equipment, (2) hiring consultants to provide technical assistance, and (3) providing payments to persons when they are receiving rehabilitation and training. HEW officials advised us that these grants were generally made to assist rehabilitation facilities in training and rehabilitating handicapped persons rather than to provide financial assistance to workshop production operations.

Delivery charges

The purchasing agencies must pay delivery charges for products purchased from workshops; however, GSA generally requires suppliers selling office products to the Government on a competitive basis to pay the delivery charges.

In establishing the prices of products set aside, DSA estimated delivery costs only when it was believed that delivery costs substantially affected the cost of the products purchased. For example, estimates of delivery costs were not made for ball point pens and refills, mechanical pencils, and markers. However, delivery costs were considered for note pad binders.

Wage rates

The Department of Labor is authorized to permit nonprofit workshops having work programs for rehabilitating or employing handicapped persons to pay those individuals wages lower than those paid to nonhandicapped persons, considering the lower productivity of handicapped persons. The workshops generally are required to pay wage rates not lower than 50 percent of the Federal minimum wage which is currently \$1.60 an hour.

During fiscal year 1968 the average wage rate in workshops for the blind eligible for set asides amounted to \$1.57 an hour as compared to \$0.76 an hour shown in the Association's position paper for all workshops in March 1968. During fiscal year 1972 the average hourly wage rate of blind workers in eligible workshops was \$1.80.

The wage rates paid to handicapped persons are required to be commensurate with the wage rates paid to nonhandicapped persons performing essentially the same type, quality, and quantity of work in the vicinity of the workshop. However, in determining the lower wage rates, the workshops are required to determine the differences in productivity between handicapped and nonhandicapped persons and may adjust the wages paid to handicapped persons to reflect these differences.

CONCLUSIONS

Industry is denied the opportunity to bid on purchases set aside for workshops. The Committee, however, provides affected industries the opportunity to comment on proposals to set aside commodities and services and considers the impact of its proposals on industries. We concluded that the Committee has taken reasonable steps to consider the views of industry.

In determining the prices for commodities newly set aside, the Committee uses the most recent competitive bid prices received by the Government to measure the reasonableness of the prices requested by the workshops. In evaluating the requests for price increases for commodities already set aside, the

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Committee analyzes cost data submitted by the workshops and considers commercial prices for similar commodities. In the absence of competitive bids, these approaches appear to provide a reasonable method for establishing prices fair to the Government.

We concluded that Government financial assistance does not provide workshops an unfair advantage over other suppliers because grants generally are not made to assist workshop production facilities.

Because the prices paid to the workshops do not include delivery costs, although those paid to other suppliers do, the workshop prices appear more competitive than they actually are. We concluded that, since DSA had considered delivery costs for certain of the products set aside, this advantage was minimized to some extent.

We concluded also that the special wage rates paid to handicapped workers do not provide the workshops an unfair advantage over other suppliers, but rather reduce the competitive advantage that suppliers employing nonhandicapped workers have over the workshops.

We trust that the foregoing information is responsive to your request. If we can be of further assistance, please let us know.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "James B. Axtell".

Comptroller General  
of the United States

The Honorable William S. Mailliard  
House of Representatives