

111TH CONGRESS
2^D SESSION

H. R. 5983

To revise the Javits-Wagner-O'Day Act.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2010

Mr. TOWNS (for himself and Mr. BILBRAY) introduced the following bill;
which was referred to the Committee on Oversight and Government Reform

A BILL

To revise the Javits-Wagner-O'Day Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Javits-Wagner-O'Day Act of 2010”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Committee for Purchase From People Who Are Blind or People With
Other Significant Disabilities.
- Sec. 3. Procurement requirements for the Federal Government; nonapplication
to prison made products.
- Sec. 4. Duties of the Committee.
- Sec. 5. Qualified nonprofit agency.
- Sec. 6. Audit.

Sec. 7. Establishment of Inspector General for Committee for Purchase From People Who Are Blind or People With Other Significant Disabilities.

Sec. 8. Panel on the Committee and Federal procurement.

Sec. 9. Definitions.

Sec. 10. Sense of Congress.

Sec. 11. Committee for Purchase Fund.

Sec. 12. Conforming repeal.

1 **SEC. 2. COMMITTEE FOR PURCHASE FROM PEOPLE WHO**
2 **ARE BLIND OR PEOPLE WITH OTHER SIGNIFI-**
3 **CANT DISABILITIES.**

4 (a) ESTABLISHMENT.—There is established an inde-
5 pendent Federal entity to be known as the Committee for
6 Purchase From People Who Are Blind or People With
7 Other Significant Disabilities (in this Act referred to as
8 the “Committee”).

9 (b) MEMBERSHIP.—

10 (1) NUMBER OF MEMBERS.—The Committee
11 shall be composed of 17 members appointed by the
12 President as follows:

13 (A) One general or flag officer or Senior
14 Executive Service or equivalent employee from
15 each of the following:

16 (i) The Department of Agriculture.

17 (ii) The Department of Commerce.

18 (iii) The Department of Defense.

19 (iv) The Department of Education.

20 (v) The Department of Homeland Se-
21 curity.

- 1 (vi) The Department of Justice.
2 (vii) The Department of Labor.
3 (viii) The Department of the Air
4 Force.
5 (ix) The Department of the Army.
6 (x) The Department of the Interior.
7 (xi) The Department of the Navy.
8 (xii) The Department of Veterans Af-
9 fairs.
10 (xiii) The General Services Adminis-
11 tration.

12 (B) One member who is not an officer or
13 employee of the Federal Government and who is
14 conversant with the problems incident to the
15 employment of people who are blind.

16 (C) One member who is not an officer or
17 employee of the Federal Government and who is
18 conversant with the problems incident to the
19 employment of people with other significant dis-
20 abilities.

21 (D) One member who is not an officer or
22 employee of the Federal Government and who
23 represents people who are blind and employed
24 in a qualified nonprofit agency for people who
25 are blind.

1 (E) One member who is not an officer or
2 employee of the Federal Government and who
3 represents people with other significant disabili-
4 ties (other than people who are blind) who are
5 employed in a qualified nonprofit agency for
6 people with other significant disabilities.

7 (2) NOMINATION OF GENERAL OR FLAG OFFI-
8 CER OR SENIOR EXECUTIVE SERVICE.—

9 (A) IN GENERAL.—The head of each de-
10 partment or agency listed in paragraph (1)(A)
11 shall nominate, in consultation with the Com-
12 mittee, one general or flag officer or Senior Ex-
13 ecutive Service or equivalent employee in the
14 department or agency for appointment under
15 such paragraph.

16 (B) EXISTING MEMBERS.—Those officers
17 or employees serving as members of the Com-
18 mittee on the effective date of this Act who are
19 not general or flag officers or Senior Executive
20 Service or equivalent employees may continue
21 serving until the head of the department or
22 agency nominates a new officer or employee and
23 the nominated officer or employee is appointed
24 by the President as a member on the Com-
25 mittee.

1 (c) TERMS.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), each member shall be appointed for a
4 term of 5 years and may be reappointed to the Com-
5 mittee.

6 (2) VACANCIES.—

7 (A) IN GENERAL.—Any member appointed
8 under subparagraphs (B), (C), (D), and (E) of
9 subsection (b)(1) to fill a vacancy occurring be-
10 fore the expiration of the term for which the
11 member's predecessor was appointed shall be
12 appointed only for the remainder of that term.

13 (B) EXTENSION OF TERM.—A member
14 may serve after the expiration of that member's
15 term until a successor has taken office.

16 (C) APPOINTMENT OF MEMBER FOR VA-
17 CANCY.—A vacancy in the Committee shall be
18 filled in the manner in which the appointment
19 was made pursuant to subsection (b).

20 (d) BASIC PAY.—

21 (1) RATE OF PAY.—Except as provided in para-
22 graph (2), members of the Committee shall each be
23 entitled to receive the daily equivalent of the annual
24 rate of basic pay under section 5376 of title 5,
25 United States Code, for each day (including travel

1 time) during which they are engaged in the actual
2 performance of duties vested in the Committee.

3 (2) PROHIBITION OF COMPENSATION OF FED-
4 ERAL EMPLOYEES.—Members of the Committee who
5 are officers or employees of the Federal Government
6 may not receive additional pay, allowances, or bene-
7 fits by reason of their service on the Committee.

8 (e) TRAVEL EXPENSES.—Each member shall receive
9 travel expenses, including per diem in lieu of subsistence,
10 in accordance with applicable provisions under subchapter
11 I of chapter 57 of title 5, United States Code.

12 (f) STATUS OF MEMBERS.—

13 (1) TORT CLAIM.—For the purpose of chapter
14 171 of title 28, United States Code, each member of
15 the Committee shall be considered to be a Federal
16 employee.

17 (2) FEDERAL STATUS OF MEMBERS.—Each
18 member of the Committee shall be considered to be
19 a Federal employee for purposes of the provisions of
20 law relating to ethics, conflicts of interest, corrup-
21 tion, and any other criminal or civil statute or regu-
22 lation governing the conduct of Federal employees.

23 (g) CHAIRMAN.—

1 (1) ELECTION.—The members of the Com-
2 mittee shall elect one of the members to be Chair-
3 man of the Committee.

4 (2) VACANCY.—The Chairman may serve after
5 the expiration of the term until a successor has
6 taken office.

7 (h) EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND
8 STAFF OF COMMITTEE; EXPERTS AND CONSULTANTS.—

9 (1) EXECUTIVE DIRECTOR AND GENERAL
10 COUNSEL.—

11 (A) IN GENERAL.—Subject to rules pre-
12 scribed by the Committee, the Chairman may
13 appoint and fix the pay of an Executive Direc-
14 tor and General Counsel to assist the Com-
15 mittee, at the direction of the Committee, in
16 carrying out the Committee's duties and powers
17 under this Act.

18 (B) EXECUTIVE DIRECTOR PAY.—The Ex-
19 ecutive Director shall be paid at a rate not to
20 exceed the rate of basic pay for level II of the
21 Executive Schedule under section 5313 of title
22 5, United States Code.

23 (C) GENERAL COUNSEL PAY.—The Gen-
24 eral Counsel shall be paid at a rate not to ex-
25 ceed the rate of basic pay for level III of the

1 Executive Schedule under section 5314 of title
2 5, United States Code.

3 (2) STAFF.—

4 (A) APPOINTMENT.—Subject to rules pre-
5 scribed by the Committee and with the consent
6 of the Chairman, the Executive Director may
7 appoint and fix the pay of additional personnel
8 as the Executive Director considers necessary.

9 (B) APPLICABILITY OF CERTAIN CIVIL
10 SERVICE LAWS.—Personnel appointed under
11 subparagraph (A) shall be appointed subject to
12 the provisions of title 5, United States Code,
13 governing appointments in the competitive serv-
14 ice, and shall be paid in accordance with the
15 provisions of chapter 51 and subchapter III of
16 chapter 53 of that title relating to classification
17 and General Schedule pay rates.

18 (3) CRITICAL POSITIONS.—

19 (A) CRITICAL PAY AUTHORITY.—Notwith-
20 standing paragraph (2)(B) and subject to sec-
21 tion 5377 of title 5, United States Code, any
22 rules prescribed by the Committee, and sub-
23 paragraph (B), the Executive Director may ap-
24 point and fix the pay of such individuals that
25 the Executive Director considers necessary for

1 positions designated as critical administrative,
2 technical, and professional.

3 (B) LIMITATION.—The number of critical
4 positions designated under subparagraph (A)
5 may not exceed 15 percent of the full-time
6 equivalent positions authorized for the Com-
7 mittee staff.

8 (4) EXPERTS AND CONSULTANTS.—With the
9 approval of the Chairman, the Executive Director
10 may procure temporary and intermittent services
11 under section 3109(b) of title 5, United States Code.

12 (i) STAFF OF FEDERAL AGENCIES.—Upon request of
13 the Committee, the head of any Federal department or
14 agency may detail, on a reimbursable or nonreimbursable
15 basis, any of the personnel of that department or agency
16 to the Committee to assist it in carrying out its duties
17 and powers under this Act.

18 (j) POWERS OF THE COMMITTEE.—

19 (1) OBTAINING OFFICIAL DATA.—The Com-
20 mittee may secure directly from any department or
21 agency of the United States, designated central non-
22 profit agency, or qualified nonprofit agency, infor-
23 mation necessary to enable it to carry out this Act.
24 Upon request of the Chairman of the Committee,

1 the head of that department or agency shall furnish
2 that information to the Committee.

3 (2) ADMINISTRATIVE SUPPORT SERVICES.—

4 Upon the request of the Committee, the Adminis-
5 trator of General Services shall provide to the Com-
6 mittee, on a reimbursable basis, the administrative
7 support services necessary for the Committee to
8 carry out the duties and responsibilities of the Com-
9 mittee under this Act.

10 **SEC. 3. PROCUREMENT REQUIREMENTS FOR THE FEDERAL**

11 **GOVERNMENT; NONAPPLICATION TO PRISON**

12 **MADE PRODUCTS.**

13 (a) REQUIREMENT.—Except as provided in sub-
14 section (b), if any entity of the Federal Government in-
15 tends to procure any product or service, or any product
16 or service that is essentially the same as a product or serv-
17 ice on the procurement list, that entity shall, in accordance
18 with regulations of the Committee, procure such product
19 or service, at the price established by the Committee, from
20 a qualified nonprofit agency for people who are blind or
21 such an agency for people with other significant disabil-
22 ities designated by the Committee if the product or service
23 is available within the period required by that entity.

24 (b) EXCEPTION.—This section shall not apply with
25 respect to the procurement of any product that is available

1 for procurement from an industry established under chap-
2 ter 307 of title 18, United States Code, and which, under
3 section 4124 of such title, is required to be procured from
4 such industry.

5 **SEC. 4. DUTIES OF THE COMMITTEE.**

6 (a) OVERSIGHT.—The Committee shall oversee and
7 carry out a program under this Act to administer and im-
8 plement the procurement list and other provisions of this
9 Act.

10 (b) PROCUREMENT LIST.—

11 (1) IN GENERAL.—The Committee shall estab-
12 lish and publish in the Federal Register a list (in
13 this Act referred to as the “procurement list”) that
14 includes—

15 (A) the products produced by—

16 (i) any qualified nonprofit agency for
17 people who are blind; or

18 (ii) any qualified nonprofit agency for
19 people with other significant disabilities;
20 and

21 (B) the services provided by any such
22 agency;

23 that the Committee determines are suitable for pro-
24 curement by the Federal Government pursuant to
25 this Act.

1 (2) ADDING AND REMOVING PRODUCTS AND
2 SERVICES FROM THE PROCUREMENT LIST.—Except
3 as provided under paragraph (3), the Committee
4 may, by rule made in accordance with the require-
5 ments of subsections (b), (c), (d), and (e) of section
6 553 of title 5, United States Code, add to and re-
7 move from the procurement list products so pro-
8 duced and services so provided.

9 (3) ADDING PRODUCTS AND SERVICES TO THE
10 PROCUREMENT LIST FOR COMPELLING NEED.—

11 (A) IN GENERAL.—Notwithstanding sub-
12 sections (b), (c), (d), and (e) of section 553 of
13 title 5, United States Code, and subject to sub-
14 paragraphs (B) and (C), the Committee may
15 establish a process to immediately add products
16 or services to the procurement list for a period
17 not to exceed five years if the Committee deter-
18 mines that there is a compelling need to add
19 such products or services.

20 (B) PROCESS.—The Committee shall en-
21 sure that any process under subparagraph (A)
22 provides, before adding a product or service to
23 the list, an opportunity for a full and fair con-
24 sideration of input of the responsible con-
25 tracting activity that includes the following:

1 (i) The capability of the proposed
2 nonprofit agency to provide the product or
3 service.

4 (ii) The extent to which the proposed
5 price adequately reflects a fair market
6 price.

7 (iii) The suitability of the product or
8 service to the contracting activity.

9 (C) REQUIREMENTS.—Any product or
10 service that is immediately added to the pro-
11 curement list pursuant to this paragraph—

12 (i) shall be for a contract that is val-
13 ued at less than the simplified acquisition
14 threshold annually; and

15 (ii) shall meet the requirements of
16 paragraph (2) not later than two years
17 after the date on which such product or
18 service is added to the procurement list.

19 (4) DESIGNATION.—In administering the pro-
20 curement list, the Committee shall designate which
21 qualified nonprofit agency may provide the products
22 or services to the Federal Government and may
23 transfer the responsibility to provide such products
24 or services from any nonprofit agency to another

1 nonprofit agency if necessary, as provided by regula-
2 tions.

3 (5) INFORMATION CAMPAIGN.—The Com-
4 mittee—

5 (A) shall inform Federal agencies about
6 the procurement list and the procurement re-
7 quirements under section 3 of this Act;

8 (B) shall encourage and assist Federal
9 agencies to identify additional products and
10 services that would be suitable to add to the
11 procurement list; and

12 (C) shall encourage the private sector to
13 work with qualified nonprofit agencies to in-
14 crease employment opportunities for people who
15 are blind or people with other significant dis-
16 abilities.

17 (c) FAIR MARKET PRICE; PRICE REVISION.—The
18 Committee shall—

19 (1) determine the fair market price of products
20 and services that are on the procurement list and
21 that are offered for sale to the Federal Government
22 by any qualified nonprofit agency; and

23 (2) revise, in accordance with changing market
24 conditions, its price determinations with respect to
25 such products and services.

1 (d) CENTRAL NONPROFIT AGENCY.—

2 (1) DESIGNATION OF CENTRAL NONPROFIT
3 AGENCY.—To perform the duties and responsibilities
4 under paragraph (2) and any other duties and re-
5 sponsibilities the Committee determines are nec-
6 essary to carry out the purposes of this Act in ac-
7 cordance with regulations, the Committee shall des-
8 ignate—

9 (A) a central nonprofit agency or agencies
10 for people who are blind that is an organization
11 described in section 501(c)(3) of the Internal
12 Revenue Code of 1986 and exempt from tax-
13 ation under section 501(a) of such Code; and

14 (B) a central nonprofit agency or agencies
15 for people with other significant disabilities that
16 is an organization described in section
17 501(c)(3) of the Internal Revenue Code of 1986
18 and exempt from taxation under section 501(a)
19 of such Code.

20 (2) CENTRAL NONPROFIT AGENCY DUTIES.—
21 The Committee may assign to the designated central
22 nonprofit agencies the following duties and respon-
23 sibilities:

24 (A) Evaluate the qualifications and capa-
25 bilities of the nonprofit agencies of such central

1 nonprofit agency and provide the Committee
2 with relevant data regarding such nonprofit
3 agencies.

4 (B) Represent the nonprofit agencies of
5 such central nonprofit agency in matters before
6 the Committee.

7 (C) Obtain from Federal contracting ac-
8 tivities such procurement information as the
9 Committee determines is appropriate.

10 (D) Recommend to the Committee suitable
11 products or services to add to the procurement
12 list.

13 (E) Recommend to the Committee—

14 (i) the initial fair market price for the
15 products and services proposed to be added
16 to the procurement list; and

17 (ii) price changes as market condi-
18 tions change.

19 (F) Allocate, in accordance with the policy
20 guidelines of the Committee, orders for prod-
21 ucts and services on the procurement list to the
22 qualified nonprofit agencies of the central non-
23 profit agency.

24 (G) When authorized by the Committee,
25 enter into contracts with Federal agencies to

1 provide products or services on the procurement
2 list.

3 (H) Submit preliminary documentation
4 and information to support the qualification
5 under section 5 of the nonprofit agencies of
6 such central nonprofit agency.

7 (I) Obtain and review annual qualification
8 information from the nonprofit agencies of the
9 central nonprofit agency.

10 (J) Assist the nonprofit agencies of the
11 central nonprofit agency to meet statutory, reg-
12 ulatory, and contractual requirements.

13 (K) Assist the nonprofit agencies of the
14 central nonprofit agency to facilitate efforts to
15 assist employees who are interested to enter or
16 retain other full-time or, if appropriate, part-
17 time competitive employment in the integrated
18 labor market or satisfy the vocational outcome
19 of self-employment.

20 (L) Perform other noninherently govern-
21 mental functions, at the request of the Com-
22 mittee or a qualified nonprofit agency of the
23 central nonprofit agency.

1 (3) RIGHT OF APPEAL.—The Committee shall
2 require each designated central nonprofit agency to
3 implement procedures—

4 (A) that provide for a review of the deci-
5 sions made by the central nonprofit agency that
6 adversely impact the qualified nonprofit agency
7 (or agency seeking qualified status); and

8 (B) that include a provision for a qualified
9 nonprofit agency (or agency seeking qualified
10 status) to appeal such adverse decision to the
11 Committee.

12 (e) REGULATIONS.—

13 (1) IN GENERAL.—The Committee shall pre-
14 scribe regulations necessary to carry out the pur-
15 poses of this Act, including additions, deletions,
16 transfers, and pricing of items on the procurement
17 list and qualifications and fees of central nonprofit
18 agencies.

19 (2) PRIORITY.—The Committee shall prescribe
20 regulations providing that, in the purchase by the
21 Federal Government of products produced and of-
22 fered for sale by qualified nonprofit agencies for peo-
23 ple who are blind or people with other significant
24 disabilities, priority shall be accorded to products

1 produced and offered for sale by qualified nonprofit
2 agencies for people who are blind.

3 (3) DEFINITION FOR COMPELLING NEED.—The
4 Committee shall prescribe regulations that define
5 “compelling need” for purposes of section 4(b)(3).

6 (4) CENTRAL NONPROFIT AGENCY FEE.—The
7 Committee shall prescribe regulations establishing
8 an annual maximum ceiling for a fee paid by non-
9 profit agencies to the central nonprofit agency.

10 (5) NONCOMPLIANCE.—The Committee shall
11 prescribe regulations to address alleged violations of
12 this Act and regulations prescribed pursuant to this
13 Act by central nonprofit agencies and qualified non-
14 profit agencies, including progressive sanctions and
15 an opportunity for such agencies to address and sub-
16 mit statements about such alleged violations to the
17 Committee.

18 (f) DEMONSTRATION PROJECT.—The Committee
19 may conduct pilot or demonstration projects (on its own
20 or in cooperation with other public, nonprofit agencies, or
21 private agencies) on the following:

22 (1) Methods to increase use by the Federal
23 Government of products produced and services deliv-
24 ered by qualified nonprofit agencies throughout the
25 Federal Government, including methods to remove

1 or mitigate any barriers or impediments to such
2 usage.

3 (2) Development and adaptation of production
4 methods that would enable a greater use of people
5 who are blind and people with other significant dis-
6 abilities.

7 (g) ANNUAL REPORT AND DATA COLLECTION.—

8 (1) ANNUAL REPORT.—The Committee shall,
9 not later than April 1 of each year, evaluate and
10 submit to the President and to Congress a report
11 that includes the following:

12 (A) The names of the Committee members
13 serving in the preceding fiscal year.

14 (B) The dates of Committee meetings in
15 such fiscal year.

16 (C) A description of the activities of the
17 Committee under this Act in such fiscal year.

18 (D) Data regarding compliance of Federal
19 agencies with the requirements of this Act.

20 (E) An analysis of the direct and indirect
21 effects of this Act on the small business com-
22 munity.

23 (F) An analysis of Federal agency level of
24 performance with the requirements of section 3

1 of this Act, including number and dollar value
2 of contracts awarded pursuant to this Act.

3 (2) DATA COLLECTION.—At the request of the
4 Committee, Federal agencies shall provide data to
5 the Committee regarding compliance with the re-
6 quirements of this Act.

7 (3) CENTRAL NONPROFIT AGENCIES AND
8 QUALIFIED NONPROFIT AGENCY COLLECTION OF
9 DATA.—Central nonprofit agencies and qualified
10 nonprofit agencies shall keep records prescribed by
11 the Committee and shall participate in data collec-
12 tion, including data required for preparation of the
13 required reports.

14 **SEC. 5. QUALIFIED NONPROFIT AGENCY.**

15 (a) QUALIFIED NONPROFIT AGENCY.—In this Act,
16 the term “qualified nonprofit agency” means—

17 (1) a qualified nonprofit agency for people who
18 are blind, as defined in subsection (b); or

19 (2) a qualified nonprofit agency for people with
20 other significant disabilities, as defined in subsection
21 (c).

22 (b) QUALIFIED NONPROFIT AGENCY FOR PEOPLE
23 WHO ARE BLIND.—

24 (1) IN GENERAL.—In this Act, the term “quali-
25 fied nonprofit agency for people who are blind”

1 means a nonprofit agency for people who are blind
2 that—

3 (A) meets the initial qualification require-
4 ment under paragraph (2) and maintains quali-
5 fication under paragraph (3) where applicable;

6 (B) provides employment for people who
7 are blind; and

8 (C) complies with all other regulations for
9 qualified nonprofit agencies prescribed by the
10 Committee.

11 (2) INITIAL QUALIFICATION.—In order to meet
12 the initial qualification requirement under this para-
13 graph, a nonprofit agency for people who are blind
14 must submit a certification to the Committee
15 through the central nonprofit agency that includes
16 the following assurances:

17 (A) Such nonprofit agency is organized
18 under the laws of the United States or of a
19 State.

20 (B) Such nonprofit agency is operated in
21 the best interest of people who are blind.

22 (C) The net income of such nonprofit
23 agency does not inure in whole or in part to the
24 benefit of any shareholder or other individual.

1 (D) Such nonprofit agency uses sound or-
2 ganizational and personnel assignment prac-
3 tices, including making nondiscriminatory deci-
4 sions to employ and advance in employment
5 qualified people who are blind.

6 (E) Such nonprofit agency practices sound
7 fiscal management in accordance with generally
8 accepted accounting principles.

9 (3) MAINTENANCE OF QUALIFICATION.—In
10 order to maintain qualification under this para-
11 graph, a nonprofit agency for people who are blind
12 must meet each of the following requirements:

13 (A) Maintain all qualifications necessary
14 for initial qualification.

15 (B) Furnish products and services in ac-
16 cordance with Federal Government contracts.

17 (C) Comply with applicable Federal pro-
18 curement standards, compensation, employ-
19 ment, and occupational health and safety stand-
20 ards, including procedures to encourage filling
21 of vacancies within the agency by promotion of
22 qualified employees who are blind.

23 (D) Comply with regulations prescribed by
24 the Committee.

1 (E) Make the records of the nonprofit
2 agency available for review and inspection by
3 the Committee or the designated central non-
4 profit agency.

5 (F) Upon receipt of payment by the Fed-
6 eral agency for products or services provided
7 under contracts awarded to qualified nonprofit
8 agencies pursuant to this Act, pay to the cen-
9 tral nonprofit agency a fee not to exceed the fee
10 ceiling established by the Committee.

11 (G) Employ people who are blind for not
12 less than 75 percent of the employment hours
13 required for products or services provided under
14 contracts awarded to qualified nonprofit agen-
15 cies pursuant to this Act, except as provided for
16 under paragraph (4).

17 (4) WAIVER FOR EMPLOYMENT REQUIRE-
18 MENT.—

19 (A) WAIVER.—The Committee may waive
20 the requirement under paragraph (3)(I) for a
21 nonprofit agency for people who are blind if the
22 Committee determines that—

23 (i) the nonprofit agency employs peo-
24 ple who are blind at a percentage less than
25 75 percent of the employment hours, but

1 not less than 51 percent of the employ-
2 ment hours; and

3 (ii) the—

4 (I) nonprofit agency is tempo-
5 rarily unable to meet the 75 percent
6 requirement due to an emergency or
7 extraordinary circumstance;

8 (II) particular product or service
9 is significantly complex as to make it
10 unlikely that the nonprofit agency can
11 meet the 75 percent employment hour
12 requirement; or

13 (III) nonprofit agency could em-
14 ploy a substantial number of people
15 who have the most significant produc-
16 tivity challenges at wages at or above
17 the applicable Federal or State min-
18 imum wage for the particular product
19 or service.

20 (B) REGULATIONS.—The Committee shall
21 prescribe regulations on the process and the
22 factors that determine whether to exercise the
23 waiver authority under this paragraph.

24 (5) REPORT.—A qualified nonprofit agency for
25 people who are blind shall prepare and submit to the

1 Committee, through the applicable central nonprofit
2 agency, a report by December 31 of each year that
3 contains the following:

4 (A) The number of people who are blind
5 that provided products or services provided
6 under contracts awarded to qualified nonprofit
7 agencies pursuant to this Act for the previous
8 fiscal year.

9 (B) The number of people who are blind
10 that received training, technical assistance, or
11 other employment services facilitated by the
12 agency pursuant to this Act.

13 (C) The number of people who are blind
14 who are in management positions or other posi-
15 tions within the agency with decision-making
16 authority as set forth in the Committee regula-
17 tions.

18 (c) QUALIFIED NONPROFIT AGENCY FOR PEOPLE
19 WITH OTHER SIGNIFICANT DISABILITIES.—

20 (1) IN GENERAL.—In this Act, the term “quali-
21 fied nonprofit agency for people with other signifi-
22 cant disabilities” means a nonprofit agency for peo-
23 ple with other significant disabilities that—

1 (A) meets the initial qualification require-
2 ment under paragraph (2) and maintains quali-
3 fication under paragraph (3) where applicable;

4 (B) provides employment for people with
5 other significant disabilities;

6 (C) may provide employment for people
7 who are blind; and

8 (D) complies with all other regulations for
9 qualified nonprofit agencies prescribed by the
10 Committee.

11 (2) INITIAL QUALIFICATION.—In order to meet
12 the initial qualification requirement under this para-
13 graph, a nonprofit agency for people with other sig-
14 nificant disabilities must submit a certification to
15 the Committee through the central nonprofit agency
16 that includes the following assurances:

17 (A) Such nonprofit agency is organized
18 under the laws of the United States or of a
19 State.

20 (B) Such nonprofit agency is operated in
21 the best interest of people with other significant
22 disabilities.

23 (C) The net income of such nonprofit
24 agency does not inure in whole or in part to the
25 benefit of any shareholder or other individual.

1 (D) Such nonprofit agency uses sound or-
2 ganizational and personnel assignment prac-
3 tices, including making nondiscriminatory deci-
4 sions to employ and advance in employment
5 qualified people with other significant disabil-
6 ities.

7 (E) Such nonprofit agency practices sound
8 fiscal management in accordance with generally
9 accepted accounting principles.

10 (3) MAINTENANCE OF QUALIFICATION.—In
11 order to maintain qualification under this para-
12 graph, a nonprofit agency for people with other sig-
13 nificant disabilities must meet each of the following
14 requirements:

15 (A) Maintain all qualifications necessary
16 for initial qualification.

17 (B) Furnish products and services in ac-
18 cordance with Federal Government contracts.

19 (C) Comply with applicable Federal pro-
20 curement standards, compensation, employ-
21 ment, and occupational health and safety stand-
22 ards, including procedures to encourage filling
23 of vacancies within the agency by promotion of
24 qualified people with other significant disabil-
25 ities.

1 (D) Comply with regulations prescribed by
2 the Committee.

3 (E) Make the records of the nonprofit
4 agency available for review and inspection by
5 the Committee or the designated central non-
6 profit agency.

7 (F) Upon receipt of payment by the Fed-
8 eral agency for products or services provided
9 under contracts awarded to qualified nonprofit
10 agencies pursuant to this Act, pay to the cen-
11 tral nonprofit agency a fee not to exceed the fee
12 ceiling established by the Committee.

13 (G) Employ people with other significant
14 disabilities for not less than 75 percent of the
15 employment hours required for products or
16 services provided under contracts awarded to
17 qualified nonprofit agencies pursuant to this
18 Act, except as provided for under paragraph
19 (4).

20 (4) WAIVER FOR EMPLOYMENT REQUIRE-
21 MENT.—

22 (A) WAIVER.—The Committee may waive
23 the requirement under paragraph (3)(I) for a
24 nonprofit agency for people with other signifi-

1 cant disabilities if the Committee determines
2 that—

3 (i) the nonprofit agency employs peo-
4 ple with other significant disabilities at a
5 percentage less than 75 percent of the em-
6 ployment hours, but not less than 51 per-
7 cent of the employment hours; and

8 (ii) the—

9 (I) nonprofit agency is tempo-
10 rarily unable to meet the 75 percent
11 requirement due to an emergency or
12 extraordinary circumstance;

13 (II) particular product or service
14 is significantly complex as to make it
15 unlikely that the nonprofit agency can
16 meet the 75 percent employment hour
17 requirement; or

18 (III) nonprofit agency could em-
19 ploy a substantial number of people
20 who have the most significant produc-
21 tivity challenges at wages at or above
22 the applicable Federal or State min-
23 imum wage for the particular product
24 or service.

1 (B) REGULATIONS.—The Committee shall
2 prescribe regulations on the process and the
3 factors that determine whether to exercise the
4 waiver authority under this paragraph.

5 (5) REPORT.—A qualified nonprofit agency for
6 people with other significant disabilities shall pre-
7 pare and submit, through the applicable central non-
8 profit agency, to the Committee a report by Decem-
9 ber 31 of each year that contains the following:

10 (A) The number of people with other sig-
11 nificant disabilities that provided products or
12 services provided under contracts awarded to
13 qualified nonprofit agencies pursuant to this
14 Act for the previous year.

15 (B) The number of people with other sig-
16 nificant disabilities that received training, tech-
17 nical assistance, or other employment services
18 facilitated by the agency pursuant to this Act.

19 (C) The number of people with other sig-
20 nificant disabilities who are in management po-
21 sitions or other positions within the agency with
22 decision-making authority as set forth in the
23 Committee regulations.

1 **SEC. 6. AUDIT.**

2 The Comptroller General of the United States, or a
3 duly authorized representative, shall have access, for the
4 purpose of audit and examination, to any books, docu-
5 ments, papers, and other records of the Committee and
6 of each central nonprofit agency designated by the Com-
7 mittee under this Act. This section shall also apply to any
8 qualified nonprofit agency for people who are blind and
9 any such agency for people with other significant disabil-
10 ities that have sold products or services under this Act
11 but only with respect to the books, documents, papers, and
12 other records of such agency which relate to its activities
13 in a fiscal year in which a sale was made under this Act.

14 **SEC. 7. ESTABLISHMENT OF INSPECTOR GENERAL FOR**
15 **COMMITTEE FOR PURCHASE FROM PEOPLE**
16 **WHO ARE BLIND OR PEOPLE WITH OTHER**
17 **SIGNIFICANT DISABILITIES.**

18 (a) **ESTABLISHMENT.**—Section 8G(a)(2) of the In-
19 spector General Act of 1978 (5 U.S.C. App.) is amended
20 by adding after “the Board for International Broad-
21 casting,” the following: “Committee for Purchase From
22 People Who Are Blind or People With Other Significant
23 Disabilities,”.

24 (b) **APPOINTMENT.**—The Chairman of the Com-
25 mittee shall appoint an Inspector General for the Com-

1 mittee not later than one year after the date of the enact-
2 ment of this Act.

3 (c) **AUTHORITY TO INVESTIGATE FEDERAL AGENCY**
4 **COMPLIANCE.**—The Inspector General of the Committee
5 for Purchase From People Who Are Blind or People With
6 Other Significant Disabilities, in consultation with other
7 inspectors general, may investigate Federal agency compli-
8 ance with this Act.

9 **SEC. 8. PANEL ON THE COMMITTEE AND FEDERAL PRO-**
10 **CUREMENT.**

11 (a) **ESTABLISHMENT.**—The Chairman of the Com-
12 mittee shall establish a panel to be known as the “Panel
13 on the Committee for Purchase From People Who Are
14 Blind or People With Other Significant Disabilities and
15 Federal Procurement” (in this section referred to as the
16 “Panel”).

17 (b) **COMPOSITION.**—The Panel shall be composed of
18 representatives as follows:

19 (1) A representative of the Committee ap-
20 pointed by the Chairman, who shall be Co-Chairman
21 of the Panel.

22 (2) The Under Secretary of Defense for Acqui-
23 sition, Technology, and Logistics, who shall serve as
24 Co-Chairman of the Panel.

1 (3) A representative of the Office for Federal
2 Procurement Policy.

3 (4) The chief acquisition officer of the Depart-
4 ment of Veterans Affairs.

5 (5) The chief acquisition officer of the Depart-
6 ment of Homeland Security.

7 (6) The chief acquisition officer of the Depart-
8 ment of the Interior.

9 (7) The chief acquisition officer of the General
10 Services Administration.

11 (8) The chief acquisition officer of the National
12 Aeronautics and Space Administration.

13 (9) The chief acquisition officer of the Depart-
14 ment of Agriculture.

15 (10) Such other representatives as the Chair-
16 man of the Committee determines is appropriate.

17 (c) DUTIES OF THE PANEL.—The duties of the Panel
18 shall be to—

19 (1) complete any matters assigned by the
20 Chairman of the Committee;

21 (2) review the actions taken by the Committee
22 with regard to the procurement requirement under
23 section 3 of this Act, review Federal agency compli-
24 ance with such requirement, and recommend, if nec-
25 essary, legislation, regulations, policy, or infrastruc-

1 ture to increase employment of people who are blind
2 or people with other significant disabilities through
3 such requirement;

4 (3) review progress made by the Committee and
5 Federal agencies to increase employment for United
6 States citizens who are people who are blind or peo-
7 ple with other significant disabilities through the re-
8 quirement under section 3;

9 (4) recommend changes to the procurement
10 practices of Federal agencies through proposed legis-
11 lation, regulations, policy, and infrastructure that
12 will increase employment of people who are blind or
13 people with other significant disabilities; and

14 (5) recommend education and awareness of pro-
15 curement officials regarding the requirement under
16 section 3.

17 (d) MEETINGS.—The Panel shall meet as determined
18 necessary by the Chairmen of the Panel, but not less than
19 once every month.

20 (e) REPORT.—Not later than 6 months after the date
21 of the enactment of this Act, the Panel shall prepare and
22 submit to the Chairman of the Committee and the Con-
23 gress a report on the activities of the Panel, including a
24 summary of the findings and recommendations of the
25 Panel for the fiscal year covered by the report.

1 (f) TERMINATION.—The Panel shall terminate on the
2 date on which the report is submitted pursuant to sub-
3 section (e).

4 **SEC. 9. DEFINITIONS.**

5 In this Act:

6 (1) CENTRAL NONPROFIT AGENCY.—The term
7 “central nonprofit agency” means a central non-
8 profit agency designated under section 4(d).

9 (2) EMPLOYMENT HOURS.—The term “employ-
10 ment hours” includes all work required for prepara-
11 tion, processing, packing, and distribution of a prod-
12 uct, or work directly relating to the performance of
13 a service, and may include employment hours for su-
14 pervision, administration, inspection, shipping, or
15 other directly allocable services, only when the indi-
16 vidual whose direct employment hours of super-
17 vision, administration, inspection, shipping, or other
18 directly allocable services being counted, meets the
19 definition of “people who are blind” or “people with
20 other significant disabilities”.

21 (3) FEDERAL GOVERNMENT.—The term “Fed-
22 eral Government” includes any entity of the legisla-
23 tive branch or the judicial branch, any executive
24 agency or military department (as such agency and
25 department are respectively defined by sections 102

1 and 105 of title 5, United States Code), the United
2 States Postal Service, and any nonappropriated fund
3 instrumentality under the jurisdiction of the Armed
4 Forces.

5 (4) MAJOR LIFE ACTIVITY.—The term “major
6 life activity” includes mobility, communication, self-
7 care, self-direction, work tolerance, or work skills.

8 (5) PEOPLE WHO ARE BLIND.—The term “peo-
9 ple who are blind” means an individual or class of
10 individuals whose central visual acuity does not ex-
11 ceed 20/200 in the better eye with correcting lenses
12 or whose visual acuity, if better than 20/200, is ac-
13 companied by a limit to the field of vision in the bet-
14 ter eye to such a degree that its widest diameter
15 subtends an angle of no greater than 20 degrees.

16 (6) PEOPLE WITH OTHER SIGNIFICANT DIS-
17 ABILITIES.—The term “people with other significant
18 disabilities” means an individual or class of individ-
19 uals with a physical or mental impairment or com-
20 bination of impairments, other than people who are
21 blind, for whom competitive employment has not oc-
22 curred or currently is not occurring as demonstrated
23 by—

24 (A) a work function barrier or employment
25 activity limitation, including the need for serv-

1 ices or support on an ongoing basis, or on a re-
2 current basis to the degree that manifestation
3 of the impairment is episodic, over an extended
4 period of time; and

5 (B) substantial limitation of two or more
6 major life activities.

7 (7) QUALIFIED NONPROFIT AGENCY.—The
8 term “qualified nonprofit agency” has the meaning
9 given that term in section 5.

10 (8) SIMPLIFIED ACQUISITION THRESHOLD.—
11 The term “simplified acquisition threshold” has the
12 meaning given that term in section 4 of the Office
13 of Federal Procurement Policy Act (41 U.S.C. 403).

14 (9) STATE.—The term “State” means each of
15 the several States, the District of Columbia, the
16 Commonwealth of Puerto Rico, the United States
17 Virgin Islands, Guam, American Samoa, the Com-
18 monwealth of the Northern Mariana Islands, the
19 Trust Territory of the Pacific Islands, and any other
20 territory or possession of the United States.

21 **SEC. 10. SENSE OF CONGRESS.**

22 It is the sense of Congress that the term “people with
23 other significant disabilities” maintains (neither expands
24 nor narrows) eligibility under this Act for “other severely
25 handicapped” and “severely handicapped individuals”, as

1 such terms are defined in the Javits-Wagner-O'Day Act
2 (41 U.S.C. 46 et seq.), as in existence before the date of
3 the enactment of this Act.

4 **SEC. 11. COMMITTEE FOR PURCHASE FUND.**

5 (a) ESTABLISHMENT OF FUND.—There is estab-
6 lished in the Treasury of the United States a separate ac-
7 count for the deposit of fees under this Act to be known
8 as the Committee for Purchase Fund.

9 (b) ASSESSMENT AND COLLECTION OF COMMITTEE
10 FEES.—The Committee shall assess and collect each year,
11 in accordance with this section, fees from each central
12 nonprofit agency for an amount as needed that is not more
13 than 5 percent of the fees collected by such central non-
14 profit agency from qualified nonprofit agencies.

15 (c) DEPOSIT.—The Secretary shall deposit any fees
16 collected pursuant to subsection (b) into the Committee
17 for Purchase Fund established by subsection (a).

18 (d) USE OF FUNDS.—

19 (1) IN GENERAL.—Amounts in the Committee
20 for Purchase Fund shall be immediately available to
21 the Committee, and shall remain available until ex-
22 pended, for—

23 (A) the payment of employees for oversight
24 and compliance purposes; and

1 (B) to provide for the Inspector General
2 established pursuant to section 7.

3 (2) FEES NOT GOVERNMENT FUNDS.—Funds
4 obtained by, transferred to, or credited to the Com-
5 mittee for Purchase Fund shall not be construed to
6 be Government funds or appropriated monies.

7 (3) AMOUNTS NOT SUBJECT TO APPORTION-
8 MENT.—Notwithstanding any other provision of law,
9 amounts in the Committee for Purchase Fund shall
10 not be subject to apportionment for purposes of
11 chapter 15 of title 31, United States Code, or under
12 any other authority, or for any other purpose.

13 (e) REGULATIONS.—Not later than 9 months after
14 the date of the enactment of this Act, the Committee shall
15 prescribe regulations governing the collection and payment
16 of fees pursuant to this section.

17 **SEC. 12. CONFORMING REPEAL.**

18 The Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.)
19 is repealed.

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