

# GOODWILL

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*Douglas H. Barr, MSW*

December 29, 2004

President's Committee for Purchase From  
People who are Blind or Severely Disabled  
1421 Jefferson Jarvis Highway  
Jefferson Plaza 2, Suite 10800  
Arlington, VA 22202-3259  
Attention: Ms. Janet Yardick

Dear Ms. Yardick:

Re: Comments on The Proposal Rules Regarding JWOD Program (Docket No. 2004-0-01)

On behalf of Goodwill Southern California we are writing to express our opposition to the proposed notice of rulemaking [Docket No. 2004-01-01] from the President's Committee for Purchase From People Who Are Blind or Severely Disabled. It's our belief that the proposed rulemaking on governance standards for central nonprofit agencies and nonprofit agencies participating in the Javits-Wagner-O'Day (JWOD) Program exceeds the scope of the Committee's authority and Congressional mandate.

Established in 1919, Goodwill Southern California has provided education, training, work experience and job opportunities to thousands of disabled job seekers since its inception. By the end of fiscal year 2004, we expect to serve 13,000 individuals, one third of which are severely disabled, as well as place 1300 + in jobs in the community. Of the 200 severely disabled workers we employ in our Industrial Services Department, some 50 are involved in JWOD or state equivalent programs. And, out of our 1400 plus total members of staff, some 1100 are persons who are disabled or vocationally disadvantaged.

The authorizing statute for the JWOD Program clearly delineates the powers and responsibilities of the Committee (41CFR 51-2.2.41 U.S.C. Section 46). These powers and responsibilities do not extend to governance standards or executive compensation. Both Congress and the Internal Revenue Service (IRS) have jurisdiction over these areas. The Committee is mandated with determining which commodities and services should be on the committee procurement list and fair market prices, and informing federal agencies about the JWOD program.

As a participating JWOD agency, we would hope that the Committee would comply fully with the Congressional intent to provide employment and training opportunities for persons who are blind or have other severe disabilities and not delve into areas for which it lacks both the Congressional and statutory authority necessary to promulgate governance and other standards. The proposed rules will impact the entire community of

participating nonprofit agencies, despite the Committee's own comment that the overwhelming majority of JWOD-affiliates, central nonprofits agencies and nonprofit agencies operate in an ethical and accountable manner.

The statutory authority and regulations, as well as the legislative history, in addition to the applicable federal case law, do not support the Committee's actions. Furthermore, we have concerns understanding the rationale for the Committee to purport to assume regulatory authority over the governance standards for nonprofit, tax-exempt 501 (c) (3) organizations, because numerous federal entities exist to regulate these organizations.

We believe that the proposed rules do not advance the Congressional intent of the enacting JWOD legislation, and would, if adopted, diminish the program's ability to increase employment opportunities for the blind and disabled. We respectfully request that the Committee withdraw these rules.

As previously noted, most of the items in your proposed rules are currently covered either by California Statute SB 1262 or can be found in the content of each charity's 990 IRS form.

However, two matters seem to us to be unnecessarily intrusive and inappropriate. These relate to the rotation of Board members and the capping of the chief executive's salary.

Regarding Board rotation, GSC has a Bylaw that permits Directors' terms to be for 3 years and "There shall be no restriction on the number of consecutive terms to which a Director may be elected." Our Goodwill has a two-tier governance structure. The Board of Directors, which numbers up to 51, is vested with the corporate powers of the Corporation. The Board of Governors is primarily an advisory body or "Friends of Goodwill". Currently, when a Director is unable to fulfill his/her active obligations, he/she is transferred to the Board of Governors. It is a system that has worked well for us and that has allowed us the benefit of retaining experienced, knowledgeable and involved Directors for many years. With the requisite Conflict of Interest policy in place, we see no advantages to a system of compulsory rotation.

Regarding the capping of the chief executive's salary, it is important to remember that each community and each charity has unique characteristics. GSC sets the salary of its chief executive on the basis of performance, in the context of the average salary of other not-for-profit executives in Los Angeles and of similarly-size Goodwills. To be arbitrarily forced to adhere to the salary of a federal civil servant, who may or may not manage an enterprise of similar size and complexity, and most probably does not live in Los Angeles, seems to us to make no sense and incorrectly assumes that employment conditions are the same in cities across the country.

Also of relevance is the fact that on estimated 2004 revenues of over \$50 million, NISH contracts of \$1,050,000 constitute only 2% of this total and of a staff of 1445, forty NISH employees constitute of 2.8% of our total workforce. To be required to adhere to these two guidelines, when NISH constitutes such a small percentage of our overall revenues and workforce, would seem to a case of the "tail wagging the dog"! Surely the Committee can achieve the ethical standards it seeks, by less intrusive and heavy-handed means.

If the Committee is interested in exploring alternative methods of achieving its ends, such as third party accreditation, Goodwill Southern California stands ready-to help and would be pleased to join a task force or study group of affected CRPs and Committee representatives charged with making fair and appropriate recommendations.

In conclusion, however, we wish to reiterate our view that the Ccmmittee has over-reached its authority in issuing these proposed rules and they should be withdrawn immediately.

Sincerely Yours.



Douglas H. Barr  
President and CEO

cc:Blair Pence, Board Chair  
David McQuitty, Board Chair-Elect

bcc: George Kessinger, Goodwill Industries International  
Lisa Kinard, Goodwill Industries International  
Ellen Brown, Goodwill Industries International  
Judy Branzelle, Goodwill Industries International