

October 2007

DEFENSE  
CONTRACTS

Contracting for  
Military Food Services  
under the Randolph-  
Sheppard and Javits-  
Wagner-O'Day  
Programs





Highlights of [GAO-08-3](#), a report to congressional committees

### Why GAO Did This Study

Randolph-Sheppard and Javits-Wagner-O'Day (JWOD) are two federal programs that provide employment for persons with disabilities through federal contracts. In 2006, participants in the two programs had contracts with the Department of Defense (DOD) worth \$465 million annually to provide dining services at military dining facilities. The 2007 National Defense Authorization Act directed GAO to study the two programs. This report examines (1) differences in how the Randolph-Sheppard and JWOD programs provide food services for DOD and (2) differences in how contracts are awarded, prices are set, and program beneficiaries (i.e. persons with disabilities) are compensated. GAO interviewed program officials, conducted a survey of states with Randolph-Sheppard programs, and reviewed eight Randolph-Sheppard and six JWOD contracts.

### What GAO Recommends

GAO is not making recommendations in this report. In commenting on a draft of this report, DOD and the Department of Education provided technical clarifications, which were incorporated as appropriate.

To view the full product, including the scope and methodology, click on [GAO-08-3](#). For more information, contact William Woods, (202) 512-8214, woodsw@gao.gov.

## DEFENSE CONTRACTS

### Contracting for Military Food Services Under the Randolph-Sheppard and Javits-Wagner-O'Day Programs

#### What GAO Found

The Randolph-Sheppard and JWOD programs use different procedures to provide food services to DOD. In Randolph-Sheppard, states act as prime contractors, and train and license blind individuals to act as managers of dining facilities. In most cases, the blind vendor relies on a food service company—known as a teaming partner—to assist in operations, provide expertise, and help with start-up costs. About half of the blind vendors are required to employ other persons with disabilities. JWOD is administered by an independent federal agency called the Committee for Purchase from People Who are Blind or Severely Disabled (Committee for Purchase). The Committee for Purchase engages a central nonprofit agency to match DOD's needs with services provided by local nonprofit agencies. Most of the individuals working for these local nonprofit agencies are employed in less skilled jobs such as serving food or washing dishes.

The Randolph-Sheppard and JWOD programs differ significantly in the way DOD dining contracts are awarded, how prices are set, and how participants are compensated. For Randolph-Sheppard, DOD awards contracts to the states either through direct negotiations or competition with other food service companies. In either case, DOD and the states negotiate the prices based on factors such as historical prices and independent government estimates. Under JWOD, competition is not a factor because DOD is required to purchase services it needs from a list maintained by the Committee for Purchase, which establishes fair market prices for these contracts. In terms of compensation, Randolph-Sheppard blind vendors generally received a percentage of contract profits, averaging about \$276,500 per vendor annually. JWOD beneficiaries are generally paid hourly wages according to rules set by the federal government. For the three sites we visited, we estimate that beneficiaries received an average wage of \$13.15 per hour, including fringe benefits. Given the differences in the roles of the beneficiaries of these two programs, comparisons of their compensation have limited value.

| Comparison of Randolph-Sheppard and JWOD Program Procedures |  |   |
|---|--|---|
|   | Randolph-Sheppard  | JWOD  |
| Administration  | Department of Education is responsible for oversight, but program is operated at the state level by a state licensing agency under the auspices of the state vocational rehabilitation agency. | Administered by the Committee for Purchase through NISH, its central nonprofit agency.  |
| Who provides service  | Blind vendor, usually with the assistance of a teaming partner.  | Local nonprofit agency using blind or severely disabled workers.  |
| Dining contracts (as of 10/06)                              | 39 contracts worth about \$253 million per year.   | 53 contracts worth about \$212 million per year.  |
| Requirements to employ persons with disabilities            | Our survey indicated that 20 of 39 vendors have such hiring requirements. On average, about 18 percent of workers are disabled.  | The Committee for Purchase requires that participating nonprofit agencies perform at least 75 percent of direct labor hours with persons with disabilities. |

Source: GAO analysis.

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## Abbreviations

|      |                                |
|------|--------------------------------|
| DCAA | Defense Contract Audit Agency  |
| DOD  | Department of Defense          |
| FAR  | Federal Acquisition Regulation |
| JWOD | Javits-Wagner-O'Day            |
| SCA  | Service Contract Act           |

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United States Government Accountability Office  
Washington, DC 20548

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October 30, 2007

The Honorable Carl Levin  
Chairman  
The Honorable John McCain  
Ranking Member  
Committee on Armed Services  
United States Senate

The Honorable Ike Skelton  
Chairman  
The Honorable Duncan Hunter  
Ranking Member  
Committee on Armed Services  
House of Representatives

The Randolph-Sheppard Vending Facility program (Randolph-Sheppard) and Javits-Wagner-O'Day program (JWOD)<sup>1</sup> are two federal programs that provide employment for individuals with disabilities using federal contracts. In 2006, participants from both programs had food service contracts with the Department of Defense (DOD) worth about \$465 million annually to manage and/or support the operation of military dining facilities. Historically, though both programs provided employment for disabled individuals, they pursued different types of federal contracts. Randolph-Sheppard, which is regulated by the Department of Education (Education) and implemented by the states through state licensing agencies, arranged for blind vendors to manage snack bars and to service vending machines on federal properties, while the JWOD program provided a variety of goods and services to the federal government, including food-related services. However, changes over time have led to competition between the two programs. In 1974, amendments to the Randolph-Sheppard Act expanded the scope of the program to include the operation of cafeterias on federal property.<sup>2</sup> In 2001 and 2003, two court

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<sup>1</sup> JWOD has changed its name to AbilityOne but will continue to use JWOD until it is phased out in 2008. For the purposes of this report, we will refer to the program as JWOD since that was the name of the program at the time the contracts we reviewed were awarded.

<sup>2</sup> Pub. L. No. 93-516 (1974).

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cases determined that cafeterias included military dining facilities, which ultimately led to competition between the Randolph-Sheppard and JWOD programs for contracts at DOD dining facilities.

The National Defense Authorization Act for Fiscal Year 2007 addressed this competition between the two programs by reserving certain contracts for each.<sup>3</sup> In an effort to obtain additional insight into how the two programs operate with respect to DOD food service contracts, the act also required us to examine a sample of Randolph-Sheppard and JWOD food services contracts that were in effect as of October 17, 2006. More specifically, we were required to examine (1) differences in operational procedures for how the Randolph-Sheppard and JWOD programs provide food services for DOD, and (2) differences in how the contracts are awarded, how prices are determined, and how program beneficiaries (i.e. persons with disabilities) are compensated.

To address these objectives, we reviewed pertinent documents and interviewed officials from DOD, Education, an independent federal agency called the Committee for Purchase from People Who are Blind or Severely Disabled (Committee for Purchase); and organizations representing both the Randolph-Sheppard and JWOD programs. We reviewed a sample of 14 contracts—8 Randolph-Sheppard and 6 JWOD contracts. We determined that conducting a representative sample was not feasible based on our preliminary work, which indicated wide variations in how the two programs are structured and in how the Randolph-Sheppard program is administered from state to state. For these reasons, we selected a number of contracts representing both programs and each of the military services, as well as contracts that vary in terms of dollar value, size of military facilities, and geographic location. As the sample was not representative, results of our review cannot be projected to the entire universe of contracts. To gather information on the responsibilities and compensation of blind vendors, and their relationships with state licensing agencies, we conducted a survey of the 24 states that have Randolph-Sheppard dining facility contracts with DOD. All 24 states responded to our survey and provided information for 39 military dining facilities contracts. In addition, we visited military installations for 5 of the 14 contracts in our sample to conduct file reviews, observe dining facility operations, and conduct in-depth interviews with pertinent officials and staff. We selected site visits based on contracts administered under either the Randolph-Sheppard or

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<sup>3</sup> Pub. L. No. 109-364 (2007).

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JWOD program, contract size, geographic dispersion, and DOD military service. In terms of beneficiary compensation, we limited our review to Randolph-Sheppard blind vendors and JWOD workers. Appendix I contains more details about our scope and methodology. We conducted our work between November 2006 and August 2007 in accordance with generally accepted government auditing standards.

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## Results in Brief

In providing DOD with food services, the Randolph-Sheppard and JWOD programs use different operational procedures to create employment opportunities for individuals with disabilities. The Randolph-Sheppard program uses state licensing agencies to train blind vendors to serve as managers of DOD dining facilities. The licensing agencies serve as prime contractors and place the blind vendor with an appropriate dining facility. In a majority of contracts in our survey, the licensing agencies utilize commercial food service companies—referred to as “teaming partners”—who work with blind vendors to provide expertise and financial resources necessary to operate the military dining facility. Based on our survey results, about half of the blind vendors are required to employ at least some blind persons or individuals with other disabilities, and on average, 18 percent of their employees have a disability. Under the JWOD program, an independent federal agency—the Committee for Purchase—works through a central nonprofit agency to match DOD’s needs with services provided by local nonprofit agencies, such as branches of Goodwill Industries. Most of the disabled individuals working for these local nonprofit agencies are employed in less skilled jobs such as cleaning tables, washing pots and pans, or serving food.

There are significant differences between the Randolph-Sheppard and JWOD programs in terms of how contracts are awarded and priced, and how program beneficiaries are compensated. Under the Randolph-Sheppard program, the state licensing agencies are awarded food service contracts either by direct negotiations with DOD or through competition with other food service companies. The prices are negotiated between the state licensing agency and DOD based on various factors, including historical prices, independent government estimates, the proposal submitted by the state licensing agency, or the prices offered by other competitors. Under the JWOD program, competition is not a factor because DOD is required by regulation to purchase food services from a list maintained by the Committee for Purchase. Contracts are awarded at fair market prices established by the Committee for Purchase. The two programs also differ in terms of how program beneficiaries are compensated. The Randolph-Sheppard blind vendors generally receive a

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percentage of the profits from the dining facility contracts, while JWOD beneficiaries receive hourly wages and benefits stipulated by federal law. Randolph-Sheppard vendors each received, on average, pretax compensation of about \$276,500 annually, while JWOD beneficiaries at the three sites we visited earned, on average, wages of \$13.15 per hour including fringe benefits. Any direct comparison of the Randolph-Sheppard and JWOD beneficiaries' compensation is difficult because Randolph-Sheppard blind vendors have managerial positions whereas JWOD disabled workers generally have less skilled positions.

The Committee for Purchase, DOD, and Education reviewed a draft of this report. The Committee for Purchase had no comments. DOD concurred with the draft and also provided technical comments for our consideration which were incorporated as appropriate. Education provided clarifications and suggestions in a number of areas that were incorporated as appropriate.

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## Background

The Randolph-Sheppard Act created a vending facility program in 1936 to provide blind individuals with more job opportunities and to encourage their self-support.<sup>4</sup> The program trains and employs blind individuals to operate vending facilities on federal property. While Randolph-Sheppard is under the authority of the Department of Education, the states participating in this program are primarily responsible for program operations. State licensing agencies, under the auspices of the state vocational rehabilitation programs, operate the programs in each state. Federal law gives blind vendors under the program a priority to operate cafeterias on federal property.<sup>5</sup> Current DOD guidance implementing this priority directs that a state licensing agency be awarded a contract if its contract proposal is in the competitive range. In fiscal year 2006, all of the activities of the Randolph-Sheppard program generated \$692.2 million in total gross income and had a total of 2,575 vendors operating in every state except for Wyoming.

In 1938 the Wagner-O'Day Act established a program designed to increase employment opportunities for persons who are blind so they could manufacture and sell certain goods to the federal government. In 1971, the Javits-Wagner-O'Day Act amended the program to include people with

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<sup>4</sup> Pub. L. No. 74-732 (1936).

<sup>5</sup> 20 U.S.C. § 107d-3(e).



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other severe disabilities and allowed the program to provide services as well as goods.<sup>6</sup> The JWOD Act established the Committee for Purchase, which administers the program. The Committee for Purchase is required by law to designate one or more national nonprofit agencies to facilitate the distribution of federal contracts among qualified local nonprofit agencies. The designated national agencies are the National Industries for the Blind and NISH,<sup>7</sup> which represent local nonprofit agencies employing individuals who are blind or have severe disabilities. These designated national agencies charge fees for the services provided to local nonprofit agencies. Effective on October 1, 2006, the maximum fee is 3.83 percent of the revenue of the contract for the National Industries for the Blind, and 3.75 percent for NISH. The purpose of these fees is to provide operating funds for these two agencies. In fiscal year 2006, more than 600 JWOD nonprofit agencies provided the federal government with goods and services worth about \$2.3 billion. The JWOD program provided employment for about 48,000 people who are blind or have severe disabilities.

Military dining contracts under the Randolph-Sheppard and JWOD programs provide varying levels of service, ranging from support services to full-food services. Support services include activities such as food preparation and food serving. Full-food service contracts provide for the complete operation of facilities, including day-to-day decision making for the operation of the facility. As of October 17, 2006, DOD had 39 Randolph-Sheppard contracts in 24 different states. These contracts had an annual value of approximately \$253 million and were all for full-food services. At the same time, DOD had 53 JWOD contracts valued at \$212 million annually.<sup>8</sup> Of these, 39 contracts were for support services and 15 were for full-food service.<sup>9</sup> Figure 1 shows the distribution of Randolph-Sheppard and JWOD contracts with DOD dining facilities across the country.

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<sup>6</sup> Pub. L. No. 92-28 (1971).

<sup>7</sup> NISH was previously known as the National Industries for the Severely Handicapped.

<sup>8</sup> Of the 53 contracts, the JWOD nonprofit agencies were generally the prime contractor. However in a few cases, some nonprofit agencies are the subcontractors, such as under the two Marine Corps contracts.

<sup>9</sup> One contractor provided full-food services at some dining facilities and support services at another dining facility.

**Figure 1: Location of Randolph-Sheppard and JWOD Military Dining Facilities as of October 17, 2006**



Source: GAO presentation of DOD information and GAO survey of state licensing agencies.

In 1974, amendments to the Randolph-Sheppard Act expanded the scope of the program to include cafeterias on federal property. According to a DOD official, when DOD began turning increasingly to private contractors rather than using its own military staff to fulfill food service functions in the 1990s, state licensing agencies under the Randolph-Sheppard program began to compete for the same full-food services contracts for which JWOD traditionally qualified. This development led to litigation, brought by NISH, over whether the Randolph-Sheppard Act applied to DOD dining facilities. Two decisions by federal appeals courts held that the Randolph-Sheppard Act applied because the term “cafeteria” included DOD dining

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facilities.<sup>10</sup> The courts also decided that if both programs pursued the full-food service contracts for DOD dining facilities, Randolph-Sheppard had priority.

Congress enacted section 848 of the National Defense Authorization Act for Fiscal Year 2006 requiring the key players involved in each program to issue a joint policy statement about how DOD food services contracts were to be allocated between the two programs.<sup>11</sup> In August 2006, DOD, Education, and the Committee for Purchase issued a policy statement that established certain guidelines, including the following:

- The Randolph-Sheppard program will not seek contracts for dining support services that are on the JWOD procurement list, and Randolph-Sheppard will not seek contracts for operation of a dining facility if the work is currently being performed under the JWOD program; JWOD will not pursue prime contracts for operation of dining facilities at locations where an existing contract was awarded under the Randolph-Sheppard program (commonly known as the “no-poaching” provision).
- For contracts not covered under the no-poaching provision, the Randolph-Sheppard program may compete for contracts from DOD for full-food services; and the JWOD program will receive contracts for support services.
- If the needed support services are on the JWOD procurement list, the Randolph-Sheppard contractor is obligated to subcontract for those services from JWOD.
- In affording a priority to a state licensing agency when contracts are competed and the Randolph-Sheppard Act applies, the price of the state licensing agency’s offer will be considered to be fair and reasonable if it does not exceed the best value offer from other competitors by more than 5 percent or \$1 million, whichever is less.

Congress enacted the no-poaching provision in section 856 of the National Defense Authorization Act for Fiscal Year 2007.<sup>12</sup> A recent GAO bid protest decision determined that adherence to the other provisions of the policy statement was not mandatory until DOD and the Department of Education

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<sup>10</sup> *NISH v. Rumsfeld*, 348 F.3d 1263 (10th Cir. 2003); *NISH v. Cohen*, 247 F.3d 197 (4th Cir. 2001).

<sup>11</sup> Pub. L. No. 109-163 (2006).

<sup>12</sup> Pub. L. No. 109-364 (2007).

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change their existing regulations.<sup>13</sup> As of July 2007, neither agency had completed updating its regulations.

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## Randolph-Sheppard Places Blind Individuals in Managerial Roles, while JWOD Employs Persons with Disabilities in Less Skilled Jobs

The Randolph Sheppard and JWOD programs utilize different operating procedures to provide dining services to DOD. For the Randolph-Sheppard program, state licensing agencies act as prime contractors, and train and license blind vendors to operate dining facilities. For the JWOD program, the Committee for Purchase utilizes NISH to act as a central nonprofit agency and match DOD needs for dining services with local nonprofit agencies able to provide the service. JWOD employees generally fill less skilled jobs such as cleaning dining facilities or serving food.

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## Randolph-Sheppard Relies on State Licensing Agencies to Place Blind Vendors as Managers of Dining Facilities

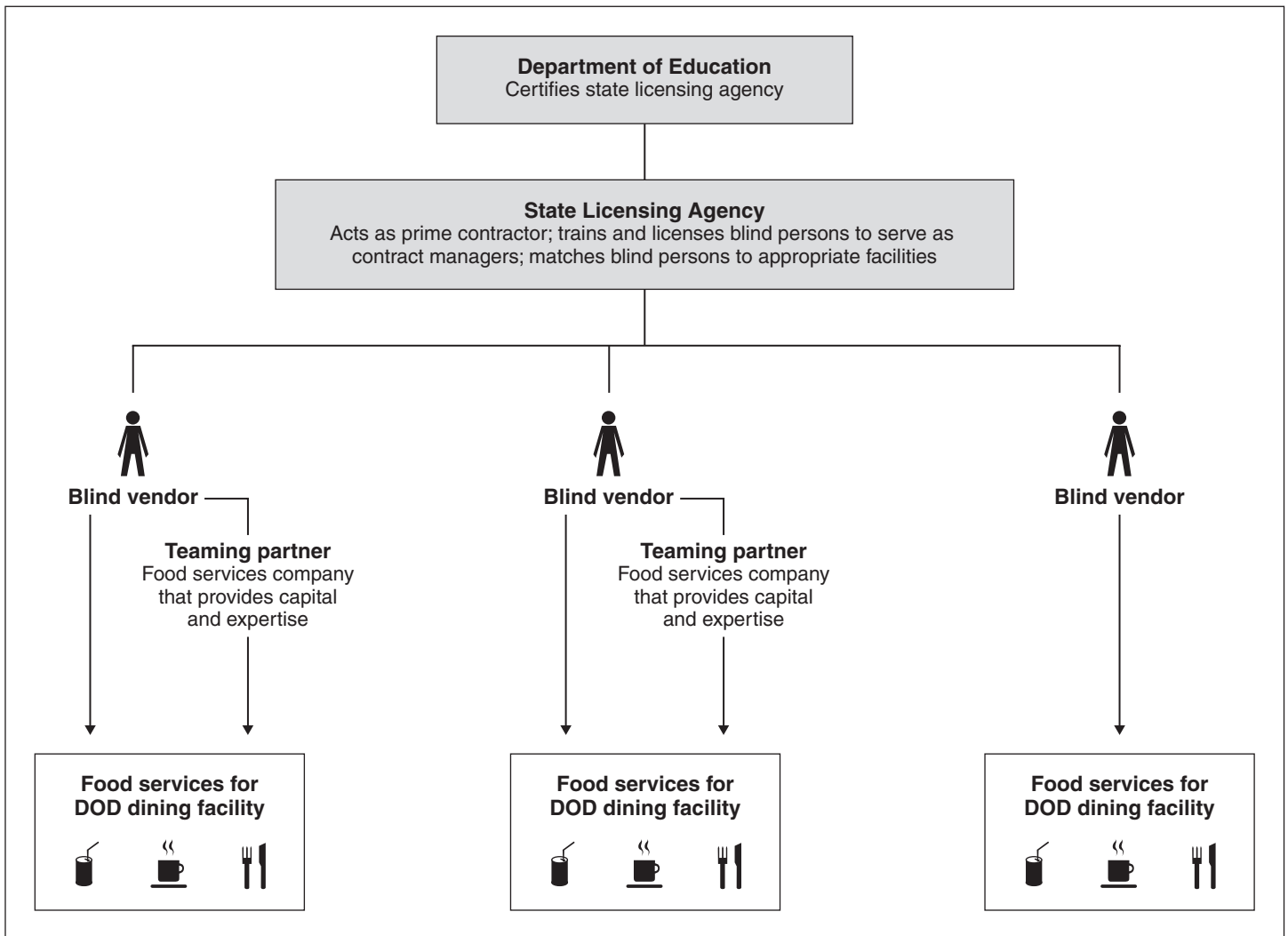
Education is responsible for overseeing the Randolph-Sheppard program, but relies on state licensing agencies to place blind vendors as dining facility managers. The Department of Education certifies state licensing agencies and is responsible for ensuring that their procedures are consistent with Randolph-Sheppard regulations.<sup>14</sup> According to our survey, state licensing agencies act as prime contractors on Randolph-Sheppard contracts, meaning that they hold the actual contract with DOD. The state licensing agencies are responsible for training blind vendors to serve as dining facility managers and placing them in facilities as new contracting opportunities become available. According to our survey, the state issues the vendor a license to operate the facility upon the successful completion of the training program. Furthermore, many states said this process often includes both classroom training and on-the-job training at a facility. Figure 2 depicts how the Randolph-Sheppard program is generally structured.

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<sup>13</sup> *GAO Decision re: Moore's Cafeteria Services, d/b/a MCS Management: B-299539*, (Washington D.C., June 5, 2007).

<sup>14</sup> Past GAO work, however, found that Education provided little oversight of this program and performed few on-site reviews of state licensing agencies in recent years. See GAO, *Federal Disability Assistance: Stronger Federal Oversight Could Help Assure Multiple Programs' Accountability*, [GAO-07-236](#) (Washington, D.C.: Jan. 26, 2007).

**Figure 2: Randolph-Sheppard Program Overview**



Source: Randolph-Sheppard Program (data); GAO (analysis and presentation).

Responding to our survey, state licensing agencies reported that all blind vendors have some level of managerial responsibility for each of the 39 Randolph-Sheppard contracts. Specific responsibilities may include managing personnel, coordinating with military officials, budgeting and accounting, and managing inventory. An official representing state licensing agencies likened the vendor’s role to that of an executive and said the vendor is responsible for meeting the needs of his or her military customer. At one facility we visited, the vendor was responsible for

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general operations, ensuring the quality of food, and helped develop new menu selections. Of the 37 contracts where the state licensing agencies provided information regarding whether the blind vendor visits his or her facility, all stated that their blind vendors visit their facilities, and in most cases are on site every day. Additionally, most state licensing agencies told us that they have an agreement with the blind vendor that lays out the state licensing agency's expectations of the blind vendor and defines the vendor's job responsibilities.

Most state licensing agencies rely on private food service companies to provide the expertise to help operate dining facilities. According to our survey, 33 of the 39 Randolph-Sheppard contracts relied on a food service company—known as a teaming partner—to provide assistance in operating dining facilities. The survey showed that in many cases, the blind vendor and teaming partner form a joint venture company to operate the facility with the vendor as the head of the company. The teaming partner can provide technical expertise, ongoing training, and often extends the vendor a line of credit and insurance for the operation of the facility. Officials representing state licensing agencies told us that states are often unable to provide these resources, and for large contracts these start-up costs may be beyond the means of the blind vendor and the state licensing agency. According to our survey, the teaming partner may assist the state in negotiating and administering the contract with DOD. Additionally, state licensing agencies told us that they often enter into a teaming agreement that defines the responsibilities of the teaming partner.

For 6 of the 39 contracts, the state licensing agencies reported that the blind vendor operates the dining facility without a teaming partner. We visited one of these locations and learned that the vendor has his own business that he uses to operate the facility. This particular vendor had participated in the Randolph-Sheppard program for almost 20 years and operated various other dining facilities.

In our survey, state licensing agencies reported that vendors in about half (20 of 39) of the contracts are required to employ individuals who are blind or have other disabilities, while others have self-imposed goals.<sup>15</sup> In other cases there may be no formal hiring requirements, but the state licensing agency encourages the blind vendor to hire individuals with

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<sup>15</sup> The Randolph-Sheppard Act does not require blind vendors to employ other individuals with disabilities.

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disabilities. Based on survey responses we received for 30 contracts, we calculated that the percentage of persons with disabilities working at Randolph-Sheppard dining facilities ranged from 3 percent to 72 percent,<sup>16</sup> with an average of 18 percent.<sup>17</sup>

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### The Committee for Purchase Works with NISH and Local Nonprofit Agencies to Employ Individuals with Disabilities in DOD Dining Facilities

The Committee for Purchase works with NISH to match DOD's need for services with nonprofit agencies able to provide food services. For military food service contracts, NISH acts as a central nonprofit agency and administers the program on behalf of the Committee for Purchase. In this role, NISH works with DOD to determine if it has any new requirements for dining services. When it identifies a need, NISH will search for a nonprofit agency that is able to perform the required service. NISH then facilitates negotiations between DOD and the nonprofit agency, and submits a proposal to the Committee for Purchase requesting that the specific service be added to the JWOD procurement list. If the Committee for Purchase approves the addition, DOD is required by the Federal Acquisition Regulation (FAR) to obtain the food service from the entity on the procurement list.<sup>18</sup> In some instances, a private food service company is awarded a military dining facility contract and then subcontracts with a JWOD nonprofit agency to provide either full or support food services. For example, the Marine Corps awarded two regional contracts to Sodexo—a large food service company—to operate its dining facilities on the East and West Coasts. Sodexo is required by its contracts to utilize JWOD nonprofit agencies and uses these nonprofit agencies to provide food services and/or support services at selected Marine Corps bases. Figure 3 depicts the JWOD program structure.

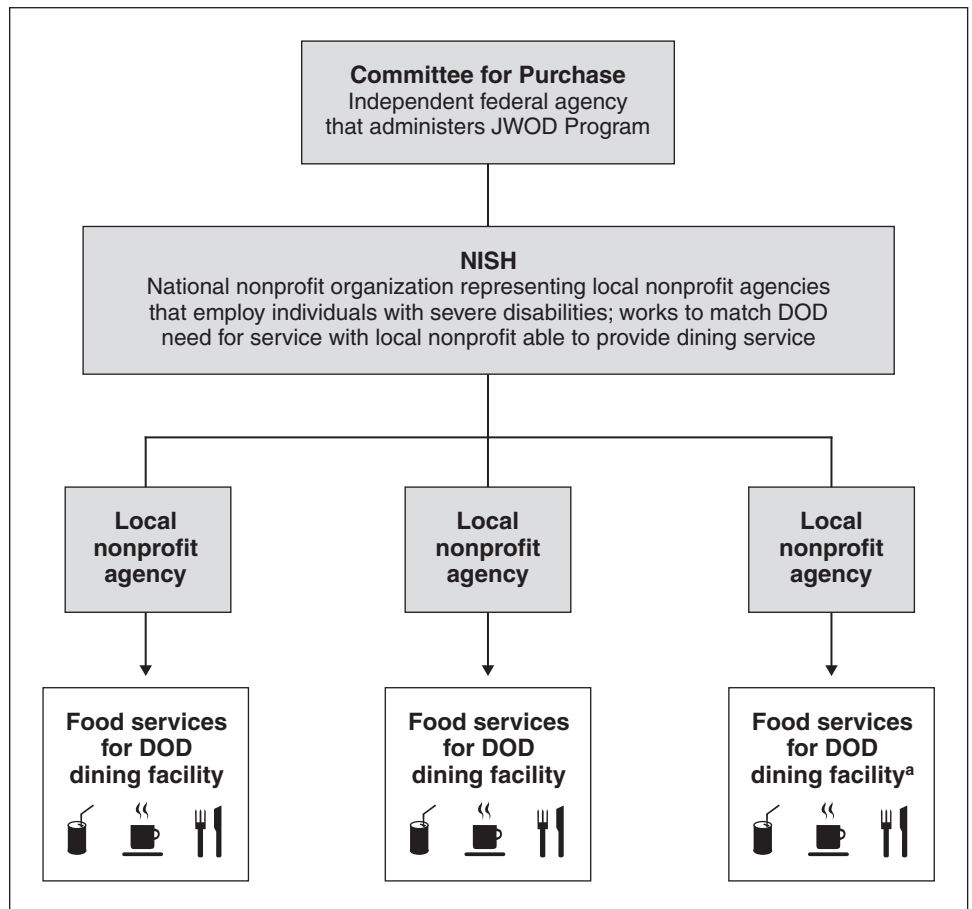
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<sup>16</sup> This latter value is for Fort Carson, Colorado, where the state licensing agency subcontracts with a JWOD agency for support services as part of a settlement of litigation that arose when the Army decided to convert contracted work from JWOD to Randolph-Sheppard.

<sup>17</sup> An official representing state licensing agencies, however, cautioned us that some figures reported by states may be low because the states only recently began to collect this information.

<sup>18</sup> The FAR establishes uniform policies for acquisition of supplies and services by executive agencies.

**Figure 3: JWOD Program Overview**



Source: JWOD Program (data); GAO (analysis and presentation).

<sup>a</sup>Occasionally, a local nonprofit agency will use a commercial food service company for baking and cooking services.

Most JWOD employees at military dining facilities perform less skilled jobs as opposed to having managerial roles. At the facilities we visited, we observed that employees with disabilities (both mental and physical) performed tasks such as mopping floors, serving food, and cleaning pots and pans after meals. Officials from NISH said this is generally true at JWOD dining facilities, including facilities where the nonprofit agency provides full-food service. Additionally, we observed—and NISH confirmed—that most supervisors are persons without disabilities. At one facility we visited, for example, the nonprofit supervisor oversees employees with disabilities who are responsible for keeping the facility clean and serving food. The Committee for Purchase requires that



agencies associated with NISH perform at least 75 percent of their direct labor hours with people who have severe disabilities. For nonprofit agencies with multiple JWOD contracts, the 75 percent direct labor requirement is based on the total for all of these contracts. Therefore one contract may be less than 75 percent but another contract must be greater than 75 percent in order for the total of these contracts to meet the 75 percent requirement. NISH is responsible for ensuring that nonprofit agencies comply with this requirement, and we previously reported that it performs site visits to all local nonprofit agencies every three years, in order to ensure compliance with relevant JWOD regulations.<sup>19</sup> At the three JWOD facilities we visited, officials reported that the actual percentage of disabled individuals employed was 80 percent or higher. Table 1 provides a comparison of the Randolph-Sheppard and JWOD programs' operating procedures.

**Table 1: Comparison of Randolph-Sheppard and JWOD Program Procedures**

|  | <b>Randolph-Sheppard</b>  | <b>JWOD</b>   |
|--|---|---|
| Administration                                   | Education is responsible for oversight, but Randolph-Sheppard is operated at the state level by a state licensing agency under the auspices of the state vocational rehabilitation agency.                              | Administered by the Committee for Purchase through NISH, its central nonprofit agency.  |
| Who provides service                             | Blind vendor, usually with the assistance of a teaming partner.   | Local nonprofit agency using blind or severely disabled workers.  |
| Dining contracts (as of 10/06)                   | 39 contracts worth about \$253 million per year.  | 53 contracts worth about \$212 million per year.  |
| Requirements to employ persons with disabilities | According to responses to our survey, some requirement exists for 20 of 39 blind vendors. Other vendors may hire disabled individuals even without a requirement. On average, about 18 percent of workers are disabled. | The Committee for Purchase requires that participating nonprofit agencies perform at least 75 percent of direct labor hours with persons with disabilities. |

Source: GAO analysis.

<sup>19</sup> [GAO-07-236](#).

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## Programs Differ Regarding How Contracts Are Awarded and Priced, and How Program Beneficiaries Are Compensated

The Randolph-Sheppard and JWOD programs have significant differences in terms of how contracts are awarded and priced, and in the compensation provided to beneficiaries who are blind or have other disabilities. Under the Randolph-Sheppard program, federal law provides for priority for blind vendors and state licensing agencies in the operation of a cafeteria. This priority may come into play when contracts are awarded either by direct noncompetitive negotiations or through competition with other food service companies. Regardless of how the contract is awarded, the prices are negotiated between the state licensing agency and DOD. Under the JWOD program, competition is not a factor because DOD is required to purchase food services from a list maintained by the Committee for Purchase. Contracts are awarded at fair market prices established by the Committee for Purchase. The two programs also differ in terms of how program beneficiaries are compensated. Under the Randolph-Sheppard program, blind vendors generally receive a share of the profits, while JWOD beneficiaries receive hourly wages and fringe benefits under federal law or any applicable collective bargaining agreement. Randolph-Sheppard blind vendors received, on the average, pretax compensation of about \$276,500 annually, while JWOD workers at the three sites visited earned on average \$13.15 per hour, including fringe benefits.

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## Significant Differences Exist in How Randolph-Sheppard and JWOD Contracts Are Awarded and Priced

Although contracts for food services awarded under the Randolph-Sheppard and JWOD programs use the terms and conditions generally required for contracts by the FAR,<sup>20</sup> the procedures for awarding and pricing contracts under the two programs differ considerably. Under the Randolph-Sheppard program, Education's regulations provide for giving priority to blind vendors in the operation of cafeterias on federal property, provided that the costs are reasonable and the quality of the food is comparable to that currently provided. The regulations provide for two procedures to implement this priority. First, federal agencies, such as the military departments, may engage in direct, noncompetitive negotiations<sup>21</sup>

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<sup>20</sup> The Department of Defense has a supplementary regulation to the FAR called the Department of Defense FAR Supplement (DFARS). The current DFARS does not offer any additional guidance on these programs.

<sup>21</sup> Direct negotiations may be undertaken with state licensing agencies whenever the on-site official with the concurrence of the head of the agency has determined that the state licensing agency through its blind licensee can provide the cafeteria services required at a reasonable cost with food of high quality comparable to that available from other providers of cafeteria services.

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with a state licensing agency. Of the eight Randolph-Sheppard contracts we reviewed in detail, six had been awarded through direct negotiations with the state licensing agency. In most of the eight cases, the contract was a follow-on to an expiring food service contract. The second award procedure involves the issuance of a competitive solicitation inviting proposals from all potential food service providers, including the relevant state licensing agency. The solicitation will specify the criteria for evaluating proposals, such as management capability, past performance, and price, and DOD will use these criteria to evaluate the proposals received. When the competitive process is used, DOD policy provides for selecting the state licensing agency for award if its proposal is in the “competitive range.”<sup>22</sup> Of the eight Randolph-Sheppard contracts we reviewed, only two involved a solicitation open to other food service providers, and there was no case in which more than one acceptable proposal was received such that DOD was required to determine a competitive range.<sup>23</sup>

The prices of contracts under the Randolph-Sheppard program are negotiated between DOD and the state licensing agency, regardless of whether DOD uses direct negotiations or seeks competitive proposals. Negotiations in either case typically begin with a pricing proposal submitted by the state licensing agency, and will then involve a comparison of the proposed price with the prices in previous contracts, an independent government estimate, or the prices offered by other competitors, if any. In some cases, DOD will seek the assistance of the Defense Contract Audit Agency (DCAA) in assessing various cost aspects of a proposal. All of the Randolph-Sheppard contracts we reviewed were generally firm, fixed price. Some had individual line items that provided for reimbursing the food service provider for certain costs incurred, such as equipment maintenance or replacing items. In most cases, the contract was for a base year, and provided for annual options (usually four) that may be exercised at the discretion of DOD. Of the 39 Randolph-Sheppard contracts within the scope of our review, the average price for the current year of the contract was about \$6.5 million. Table 2 shows the 8 Randolph-Sheppard contracts in our sample with selected contract information.

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<sup>22</sup> DOD Directive 1125.3, Vending Facility Program for the Blind on Federal Property (April 7, 1978). The FAR explains that the competitive range shall be comprised of all the most highly rated proposals.

<sup>23</sup> Our sample of contracts was not representative and findings from these eight contracts cannot be extrapolated to all Randolph-Sheppard military dining contracts.

**Table 2: Randolph-Sheppard Contracts Reviewed with Contract Award Information**

| <b>Military base</b>           | <b>Military service</b> | <b>Acquisition method</b>  | <b>Base period award amount<sup>a</sup></b> | <b>Method used to determine fair and reasonable price</b> |
|--------------------------------|-------------------------|--|---|---|
| Maxwell Air Force Base, AL     | Air Force               | Competitive solicitation. Six proposals received but only the state licensing agency's was acceptable. | \$3,793,197                                 | Government estimate based on historic data                |
| Fort Carson, CO <sup>b</sup>   | Army                    | Direct negotiation   | \$5,684,038                                 | Independent government estimate                           |
| Aberdeen Proving Ground, MD    | Army                    | Competitive solicitation issued. Only state licensing agency competed.                                 | \$4,889,495                                 | Proposal reviewed in consultation with DCAA               |
| Meridian Naval Air Station, MS | Navy                    | Direct negotiation   | \$592,028                                   | Data not provided   |
| Fort Monmouth, NJ              | Army                    | Direct negotiation   | \$1,310,678 <sup>c</sup>                    | Independent government estimate                           |
| Kirtland Air Force Base, NM    | Air Force               | Direct negotiation   | \$1,821,383                                 | Independent government estimate                           |
| Fallon Naval Air Station, NV   | Navy                    | Direct negotiation   | \$1,178,214                                 | Data not provided   |
| Fort Lee, VA <sup>p</sup>      | Army                    | Direct negotiation   | \$9,530,996                                 | Independent government estimate                           |

Source: GAO analysis of selected Randolph-Sheppard contracts

<sup>a</sup>This amount reflects the contracts' base period award amounts, which in some cases was less than 1 full year.

<sup>b</sup>For two contracts in our sample, at Fort Lee and Fort Carson, the Army awarded the full-food service contract to the state licensing agency, but stipulated in the contract that the state licensing agency had to subcontract a portion of the work to a JWOD entity that had previously been performing the work.

<sup>c</sup>This number represents the first option year of the contract because the base award amount reflected only a 2-week transition period.

Under Part 8 of the FAR, the JWOD program is a mandatory source of supply, requiring DOD to award contracts to the listed nonprofit entity at fair market prices established by the Committee for Purchase.<sup>24</sup> There is no further competition. Table 3 shows the 6 JWOD contracts in our sample with selected contract information.

<sup>24</sup> Under FAR section 8.707(f), ordering offices may suggest price changes to the Committee for Purchase at any time.

**Table 3: JWOD Contracts Reviewed with Contract Award Information**

| Military base   | Military service | Base period award amount <sup>a</sup> |
|---|------------------|---------------------------------------|
| Vandenberg Air Force Base, CA   | Air Force        | \$ 3,517,014                          |
| Naval Training Center Great Lakes, IL   | Navy             | \$45,808,772 <sup>b</sup>             |
| Holloman Air Force Base, NM   | Air Force        | \$ 1,218,769                          |
| Mid Atlantic Regional Bases (Norfolk, Yorktown, Little Creek, Oceana, and Dam Neck) | Navy             | \$ 8,460,812                          |
| Marine Corps Western Regional Bases <sup>c</sup>                                    | Marine Corps     | \$53,825,936 <sup>d</sup>             |
| Marine Corps Eastern Regional Bases <sup>c</sup>                                    | Marine Corps     | \$53,737,662 <sup>d</sup>             |

Source: GAO analysis of selected JWOD contracts.

<sup>a</sup>This amount reflects the contracts' base period award amounts, which in some cases was less than one full year. These award amounts include a fee that is used to fund the operations of the central nonprofit agency.

<sup>b</sup>This amount includes non-dining services work.

<sup>c</sup>For the two Marine Corps contracts, the Marine Corps has eastern and western regional contracts with a prime contract with a commercial food service company and several JWOD subcontracts for full-food and support services.

<sup>d</sup>These amounts represent the first year of a 5-year contract.

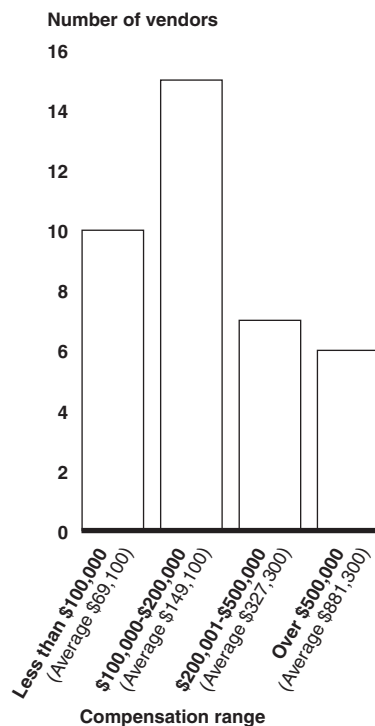
## Randolph-Sheppard Vendors Generally Receive a Percentage of Profits, and JWOD Beneficiaries Are Paid Hourly Wages According to Federal Law

Compensation for Randolph-Sheppard blind vendors is computed differently from compensation paid to JWOD disabled workers. For the Randolph-Sheppard program, blind vendors' compensation is generally based on a percentage of the profits generated by the dining facilities' operations. Based on the 37 survey responses where we could determine the basis of how blind vendors' compensation was computed, 34 reported that that the vendor's compensation was computed either entirely, or in part, based on the profits generated by the dining facility contract. For compensation based entirely on the facilities' profits, the blind vendor received from 51 to 65 percent of the profits.<sup>25</sup> For those blind vendors that were compensated partially based on profits, their compensation was based on fixed fees, administrative fees or salaries, and a percentage of the profits. Where compensation was not based on profits, these three blind vendors received either a percentage of the contract value or a fixed base

<sup>25</sup> Based on our survey, 6 contracts did not have a teaming partner and most of the responses indicated that blind vendors receive 100 percent of the profits of the dining facilities.

fee. Figure 4 shows the annual compensation received by blind vendors for military food services contracts, within specified ranges, and the average compensation for each range.

**Figure 4: Number and Average of Randolph-Sheppard Blind Vendors' Compensation within Designated Dollar Ranges (rounded to nearest 100 dollars)**



Source: GAO analysis of blind vendors' compensation.

As shown in figure 4, 15 of 38 Randolph-Sheppard blind vendors' annual compensation<sup>26</sup> was between \$100,000 and \$200,000.<sup>27</sup> Overall, blind vendors working at DOD dining facilities received average annual compensation of about \$276,500 per vendor. These figures are based on

<sup>26</sup> We were unable to obtain compensation data for two Texas contracts with annual values of \$3,570,000 and \$18,406,498. In addition, one other contract had two blind vendors rather than only one.

<sup>27</sup> This compensation was computed after reducing the amount for set-aside payments. These payments are used by the state licensing agencies to pay for items such as health insurance, retirement benefits, equipment, management services (funds for the operation of the State Randolph-Sheppard agency), and to ensure a fair return to vendors.

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pretax earnings.<sup>28</sup> We did not collect compensation information for employees of the blind vendors or employees of the teaming partners.

For the JWOD program, for most workers—including those with and without a disability—the compensation is determined by either federal law or collective bargaining agreements.<sup>29</sup> The Service Contract Act (SCA) was enacted to give employees of contractors and subcontractors labor standards protection when providing services to federal agencies. The SCA requires that, for contracts exceeding \$2,500, contractors pay their employees, at a minimum, the wage rates and fringe benefits that have been determined by the Department of Labor to be prevailing in the locality where the contracted work is performed.<sup>30</sup> However, the SCA hourly rate would not be used if there is a collective bargaining agreement that sets a higher hourly wage for selected workers. According to NISH, the collective bargaining hourly rates are, in general, 5 to 10 percent higher than the SCA's wage rates. Of the six JWOD contracts in our sample, Holloman Air Force Base and the Marine Corps' eastern and western regional contracts had collective bargaining agreements. For the three JWOD sites visited, we obtained an estimate of the average hourly wages, average hourly fringe benefits rates, and average number of hours worked and computed their annual wages. The average hourly wage for the three JWOD sites was \$13.15 including fringe benefits. Table 4 shows the average annual wages that an employee earned.

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<sup>28</sup> The blind vendors may have other expenses that would decrease their compensation, but the compensation data reviewed did not disclose these expenses.

<sup>29</sup> Collective bargaining agreements are negotiated between the employer and representatives of employees and can be used to determine the employees' hourly wages.

<sup>30</sup> Fringe benefits are health and welfare benefits.

**Table 4: Estimated Average Hourly and Annual Wages Earned at Three JWOD Sites Visited**

|                                    | Fort Lee <sup>a</sup> | Naval Station Norfolk | Great Lakes Naval Training Center | Average        |
|------------------------------------|-----------------------|-----------------------|-----------------------------------|----------------|
| Average hourly wage                | \$9.36                | \$8.06                | \$12.86                           | \$10.09        |
| Average hourly fringe benefits     | \$3.29                | \$3.01                | \$ 2.87                           | \$ 3.06        |
| <b>Total average hourly amount</b> | <b>\$12.65</b>        | <b>\$11.07</b>        | <b>\$15.73</b>                    | <b>\$13.15</b> |
| Estimated annual hours worked      | 1,380                 | 1,430                 | 1,705                             | 1,505          |
| Estimated Annual Wages             | \$17,457              | \$15,830              | \$26,820                          | \$20,036       |

Source: GAO analysis of DOD data.

<sup>a</sup>Although Fort Lee was selected as one of our Randolph-Sheppard sample contracts, it also had a subcontract with JWOD for support services. During our visit to Fort Lee, we observed both the Randolph-Sheppard and JWOD dining facilities. Also, the Fort Lee JWOD workers' wages were under a collective bargaining agreement.

Another law that can affect the disabled worker's wages is section 14(c) of the Fair Labor Standards Act, which allows employers to pay individuals less than the minimum wage (called special minimum wage rates) if they have a physical or mental disability that impairs their earning or productive capacity. For example, if a 14(c) worker's productivity for a specific job is 50 percent of that of experienced workers who do not have disabilities that affect their work, and the prevailing wage paid for that job is \$10 dollars per hour, the special minimum wage rate for the 14(c) worker would be \$5 dollars per hour.<sup>31</sup> None of the three JWOD sites we visited applied the special minimum wage for any of their disabled workers.

## Concluding Observations

The Randolph-Sheppard and JWOD programs have a common goal of serving individuals who are blind or have severe disabilities, and who are generally underrepresented in the workforce. However, these programs operate differently regarding how contracts are awarded and priced, and are designed to serve distinct populations through different means—particularly with respect to compensation for program participants. This is true for contracts with military dining facilities. The blind vendors who participate in the Randolph-Sheppard program seek to become entrepreneurs by gaining experience managing DOD dining facilities. In this respect, although most of these vendors require the assistance of a

<sup>31</sup> Although a disabled worker may be paid the special minimum wage, his/her health and welfare benefits are not reduced from the SCA minimum rates.



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private food service teaming partner, they are compensated for managing what can be large, complicated food service operations. By contrast, because the participants of the JWOD program perform work activities that require less skill and experience, and who might otherwise not be able to secure competitive employment, they are compensated at a much lower rate than the Randolph-Sheppard vendors. In this regard, it is apparent that the two programs are designed to provide very different populations with different types of assistance, and thus, it is difficult to directly compare them, particularly with respect to compensation.

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## Agency Comments and Our Evaluation

We provided a draft of this report to the Committee for Purchase, the Department of Defense, and the Department of Education for review and comment. The Committee for Purchase had no comments. DOD concurred with the draft and also provided technical comments for our consideration. We considered all of DOD's technical comments and revised the draft as appropriate. The DOD comment letter is attached as appendix II.

The Department of Education provided clarifications and suggestions in a number of areas. First, Education was concerned about comparing the earnings of the blind vendors under the Randolph-Sheppard program and the compensation provided to the food service workers under the JWOD program. The agency suggested we compare the earnings of the blind vendors with the earnings of employees of the JWOD nonprofit agencies who perform similar management functions. We agree that there are significant differences in their responsibilities, but we were required to report on the compensation of the "beneficiaries" of the two programs, which are blind managers for the Randolph-Sheppard program and hourly workers for the JWOD program. Our report highlights these differences. Our report also highlights in a number of places the difficulty in comparing the compensation of the two groups of beneficiaries. We were not required to report on the earnings of the management personnel of the nonprofit agencies, and we did not collect this information.

Second, Education urged that we fully describe the permitted uses of the set-aside fees charged by the state licensing agencies, and that we recognize that there is a similar assessment under the JWOD program. We have revised the report to point out that the Randolph-Sheppard set-aside may be used to fund the operation of the state licensing agencies. We also added language to a footnote to table 3 to recognize that the JWOD contract amounts include a fee that is used to fund the operations of the central nonprofit agency. Third, Education questions our description of

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the price negotiations that occur between DOD and the state licensing agencies. We believe our report is both clear and accurate on this point as written. In addition, DOD did not have any comments or questions about how we described price negotiations for the Randolph-Sheppard program.

Fourth, Education questioned our discussion of the numbers of persons with disabilities employed under the two programs. Specifically, Education pointed out that the requirement under the JWOD program that at least 75 percent of the direct labor hours be performed by persons with disabilities applies in the aggregate to all work performed by a nonprofit entity, not at the contract level. We have revised the report to reflect this. And finally, Education sought clarification concerning the extent commercial food service companies are used as teaming partners under the Randolph-Sheppard program or as subcontractors under the JWOD program. We have revised figures 2 and 3 of the report to more accurately reflect the use of these companies. The comment letter from Education is attached as Appendix III.

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We will send copies of this report to interested congressional committees, the Secretary of Defense, the Secretary of Education, and the Chairperson of the Committee for Purchase, as well as other interested parties. We will also make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact George Scott at (202) 512-7215 or [scottg@gao.gov](mailto:scottg@gao.gov) or William Woods at (202) 512-8214 or [woodsw@gao.gov](mailto:woodsw@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix IV.



George A. Scott  
Director, Education, Workforce, and  
Income Security Issues



William T. Woods  
Director, Acquisition and Sourcing Management

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# Appendix I: Scope and Methodology

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To accomplish our research objectives, we interviewed officials from the Department of Defense (DOD), the Department of Education, the Committee for Purchase, and organizations representing both the Randolph-Sheppard and Javits-Wagner-O'Day (JWOD) programs. We also reviewed pertinent documents and regulations governing both programs. We reviewed a sample of 14 contracts—8 Randolph-Sheppard contracts and 6 JWOD contracts. For these contracts, we requested the source selection memorandum, the acquisition plan, the basic contract, and the statement of work. For two of these contracts, the Randolph-Sheppard prime contractor for full-food services subcontracted with a JWOD nonprofit agency for support services. We determined that it was not feasible to review a representative sample of contracts based on our preliminary work, which indicated wide variations in how the two programs are structured and how the Randolph-Sheppard program is administered from state to state. For these reasons, we selected a number of contracts to review in order to ensure representation of both programs, as well as ensure a balance of contracts based on dollar value, size of military facility, branch of the military, and geographic location. As the sample was not representative, results of our review cannot be projected to the entire universe of contracts. In addition, we visited the military installation for 5 of the 14 contracts in our sample in order to observe dining facilities and their operations, as well as interview pertinent officials and staff, including the blind vendor or JWOD agency management whenever possible. Again, these five locations were selected to ensure representation of both programs, as well as variation in geographic location, contract size, and military branch. In terms of beneficiary compensation, we limited our review to Randolph-Sheppard blind vendors and JWOD workers. For the JWOD program, we obtained average hourly wages, average hourly fringe benefits, and average total hours worked during the year for JWOD employees at selected sites. We did not obtain compensation amounts for the managerial employees for any JWOD nonprofit agencies.

To obtain information on the relationships between state licensing agencies and blind vendors, we conducted a survey of the 24 state licensing agencies we determined to have Randolph-Sheppard military dining contracts. We asked questions regarding the roles and responsibilities of blind vendors, the vendor's relationship with the state licensing agencies, and the role played by teaming partners. We administered this survey between April and July 2007. We pretested this survey with program directors and modified the survey to take their comments into account. All 24 state licensing agencies responded to our survey for a response rate of 100 percent and provided information for 39

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military dining facilities contracts. Additionally, we requested information for the 40 blind vendors with military dining contracts to determine their annual compensation. For the 39 contracts, there were 40 blind vendors as one contract utilized two vendors. We received compensation information for 38 of the 40 blind vendors.

# Appendix II: Comments from the Department of Defense



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
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WASHINGTON, DC 20301-3000

SEP 19 2007

Mr. Sigurd Nilsen  
Director, Education, Workforce and Income Security Issues  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Mr. Nilsen:

This is the Department of Defense (DoD) response to the GAO Draft Report, GAO-08-3, "DEFENSE CONTRACTS: Contracting for Military Food Services under the Randolph-Sheppard and Javits-Wagner-O'Day Programs," (GAO Code 130631), dated August 20, 2007.

The Department concurs with the draft final report which does not offer any recommendations for DoD. The attached comments relate to technical accuracy and are provided for your consideration.

Thank you for the opportunity to respond to the report.

Sincerely,

Shay D. Assad  
Director, Defense Procurement  
and Acquisition Policy

Attachment:  
As stated



# Appendix III: Comments from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Sigurd R. Nilsen  
Director, Education, Workforce and  
Income Security Issues  
United States Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

AUG 31 2007

Dear Mr. Nilsen:

Thank you for the opportunity to review the draft Government Accountability Office (GAO) report to Congressional Committees: DEFENSE CONTRACTS—Contracting for Military Food Services under the Randolph-Sheppard and Javits-Wagner-O'Day Programs, GAO-08-03. In this letter, the Department of Education is providing clarifications and suggestions that we believe would add to the understanding of the operations and outcomes of these programs and, in some cases, their interrelationships.

The draft report includes several references to Federal regulations providing blind vendors a priority to operate cafeterias. The priority is, in fact, a statutory provision found at section 107d-3(e) of the Randolph-Sheppard Act; the regulatory provisions simply are consistent with the statute.

**Earnings.** We appreciate the complex nature of military contracting and the difficulty of comparing two programs with very different means of obtaining contracts in the military market. However, we have concerns about the comparisons between earnings associated with the Randolph-Sheppard program and the Javits-Wagner-O'Day (JWOD) program. We believe the draft report's statement on page 14, that Randolph-Sheppard blind vendors received, on average, \$276,500 annually, while JWOD beneficiaries earned, on average, \$13.15 per hour, is misleading. GAO's comparison is between roughly 40 blind individuals licensed by States to operate Department of Defense (DoD) food service facilities at the managerial level and a larger number of individuals performing routine food service work (e.g., serving and cleaning). While the licensed blind operators and the individual JWOD food service workers are, strictly speaking, the "beneficiaries" of the two programs, we believe the comparison gives an incomplete and selective picture because it excludes JWOD operational and managerial compensation at both the contract site and JWOD agency levels, as well as compensation for individuals employed by the for-profit food service corporations generally performing work in these contracts. These limitations and omissions are mentioned, but not explained. Cost comparisons should be of equivalent functions. Therefore, we believe a more valid comparison would be the compensation of Randolph-Sheppard vendors licensed by States to operate DoD food service facilities with the compensation of managerial employees of the JWOD nonprofit corporations providing similar operational services for DoD contracts. We believe providing these data, or a more detailed description of cost structures, would contribute to

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the accuracy of the report. Alternatively, a more extensive description of the methodological and data limitations, and their effects, would be helpful.

**Fees.** Randolph-Sheppard set-aside payments are referenced on page 18, footnote 21 of the draft report. These funds may be subtracted from the net proceeds of the operation of vending facilities (military cafeterias, in this instance), as described in regulations at 34 CFR § 395.9. However, the reference, which lists four uses of set-aside funds, omits use of set-aside funds for “management services,” that is, funds for the operation of the State Randolph-Sheppard agency. See 34 CFR § 395.9(b)(3). Furthermore, JWOD nonprofit organizations are assessed fees as a condition of their participation in the program. Those fees, which contribute to their cost structure, are most analogous to Randolph-Sheppard set-aside fees and should be described in the report.

**Price Negotiations.** There are potentially confusing references to price negotiations on pages 13 and 15 of the draft report. It is not made clear that price negotiations are a part of the competitive bid process to which all offerors are subject when State Randolph-Sheppard agencies compete for a DoD food service contract on behalf of a blind licensee. We are aware of several Randolph-Sheppard contracts that have been extended by direct negotiations beyond the initial term for which those contracts were competitively awarded. In those cases it is a fair inference that DoD base commanders and their contracting officers believed that Randolph-Sheppard contractors were meeting DoD’s needs for quality, cost, and overall performance in helping to carry out the military mission.

**Employment of persons with disabilities.** The draft report cites a wide range of figures for employment of individuals with disabilities by Randolph-Sheppard contractors, notwithstanding the fact that such employment is not required by the Act or its implementing regulations. Conversely, no data are presented for JWOD, for which the requirement is fundamental. Specifically, the draft report refers to a computed average of 18 percent of workers with disabilities in DoD contracts held by Randolph-Sheppard contractors (with a range of 3 percent to 72 percent based upon survey responses for 30 contracts). However, GAO does not provide data on the percentage of workers with disabilities actually employed on JWOD contracts. Table 1, comparing program procedures for Randolph-Sheppard and JWOD programs, refers to the requirement that participating JWOD nonprofit agencies perform at least 75 percent of direct labor hours with persons with disabilities. We believe, however, that the 75% requirement applies to all work performed by an agency with multiple contracts and may not hold true for any particular contract. There are also some DoD contracts where Randolph-Sheppard and JWOD both participate and employee data may overlap.

**Subcontracts.** Figure 2 on page 9 of the draft report, providing an overview of the Randolph-Sheppard program, does not reflect the contracts in which the licensed operator does not use a commercial food service company as a partner. The corresponding overview of the JWOD program on page 12 does not reflect the use of commercial food service contractors by JWOD providers. These firms are often the same as, or similar to, the commercial food service companies used by State Randolph-Sheppard agencies as

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**Appendix III: Comments from the Department  
of Education**

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“teaming partners.” Also, throughout the draft report, there are references to a total of 53 JWOD dining contracts with DoD. It is unclear whether this number includes prime contracts only, or also subcontracts.

Thank you again for the opportunity to review the draft report. We hope these comments are helpful and lead to clarification in the final report.

Sincerely,



William W. Knudsen  
Acting Deputy Assistant Secretary



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# Appendix IV: GAO Contacts and Staff Acknowledgments

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## GAO Contacts

George A. Scott, (202) 512-7215, scottg@gao.gov

William T. Woods (202) 512-8214, woodsw@gao.gov

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## Staff Acknowledgments

Jeremy D. Cox (Assistant Director), Richard Harada (Analyst-in-Charge), Daniel Concepcion, Rosa Johnson, and Sigurd Nilsen made significant contributions to all aspects of this report. In addition, Susannah Compton and Lily Chin assisted in writing the report and developing graphics. John Mingus provided additional assistance with graphics. Walter Vance assisted in all aspects of our survey of state licensing agencies as well as providing methodological support. Doreen Feldman, Daniel Schwimer, and Alyssa Weir provided legal support.

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*Service Contract Act: Wage Determination Process Could Benefit from Greater Transparency, and Better Use of Violation Data Could Improve Enforcement.* [GAO-06-27](#). Washington D.C.: December 7, 2005

*Special Minimum Wage Program: Centers Offer Employment and Support Services to Workers with Disabilities, but Labor Should Improve Oversight.* [GAO-01-866](#). Washington D.C.: September 4, 2001

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