

GAO

United States General Accounting Office

Report to the Chairman, Committee on  
Small Business, U.S. Senate, and the  
Chairman, Committee on Small  
Business, House of Representatives

SMALL BUSINESS

Low Participation in  
Set-Aside Program  
Expected for Sheltered  
Workshops



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United States  
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**Resources, Community, and  
Economic Development Division**

B-240260.1

August 6, 1990

The Honorable Dale L. Bumpers  
Chairman, Committee on Small Business  
United States Senate

The Honorable John J. LaFalce  
Chairman, Committee on Small Business  
House of Representatives

Section 133 of the Small Business Administration Reauthorization and Amendment Act of 1988 (P.L. 100-590, dated Nov. 3, 1988) amended section 15(c) of the Small Business Act to authorize private and public organizations for the handicapped (sheltered workshops) to compete for small business set-aside contracts awarded by federal agencies between fiscal years 1989 and 1993. The act, among other things, directed GAO to prepare by September 30, 1992, a report describing the impact that such contracts have had on for-profit small businesses for fiscal years 1989 through 1991.

In meetings with the offices of the Senate and House Committees on Small Business to discuss this legislative reporting requirement, we agreed to provide this interim report on (1) the availability of data needed to measure how contracts with sheltered workshops have affected for-profit small businesses and (2) the extent to which sheltered workshops are participating in the early stages of the program. Our final report—to be issued by September 30, 1992—will satisfy our legislative mandate to evaluate the effect of contracts awarded to sheltered workshops on small businesses.

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## Results in Brief

The Office of Management and Budget's Office of Federal Procurement Policy (OFPP) has not yet compiled data received from federal agencies on the number and dollar value of set-aside contracts awarded to sheltered workshops. However, organizations representing sheltered workshops believe that their participation in the small business set-aside program has been minimal. According to these organizations, participation has been low because (1) the 1988 authorizing legislation prohibits items that are competitively supplied by sheltered workshops under set-aside contracts from being added to the list of products and services that are permanently awarded to sheltered workshops under the provisions of the Javits-Wagner-O'Day (JWOD) Act, (2) some sheltered workshops are not aware they are eligible to participate in this program, and

government contracting to workshops employing the blind in the manufacture of brooms, mops, and other suitable commodities. In 1971, amendments to the act expanded the program's scope to include other severely handicapped persons in addition to the blind and to include services as well as products. With these amendments, the act came to be known as the Javits-Wagner-O'Day Act. Once a commodity or service is approved for procurement under the JWOD program, the federal government is generally required to purchase that commodity or service from the one or more designated sheltered workshops as long as the product or service is required.

## Data on Sheltered Workshops' Participation in the Set-Aside Program Are Not Yet Available

Data on sheltered workshops' participation in the set-aside program in fiscal year 1989 are not available for several reasons. First, the legislation imposing the OFPP reporting requirements was not signed until November 1988. Moreover, according to OFPP's Deputy Associate Administrator, OFPP needed time to change the instructions federal agencies use to submit procurement data for the Federal Procurement Data System, to coordinate these changes with the Federal Acquisition Regulatory Councils (the Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council), and to disseminate the revised instructions to the reporting agencies for implementation. The reporting agencies and FPDC also needed time to modify their computer systems to capture the required data.

According to the OFPP official, OFPP has been receiving, on computer tapes, agencies' procurement data, including information on set-aside contracts awarded to sheltered workshops in fiscal year 1990. However, the data reported to FPDC during the first two quarters of fiscal year 1990 will not be compiled and available until August 1990. According to OFPP, this delay is due to the transfer of the technical support services for processing these data from FPDC to the Department of Defense's Defense Logistics Agency because of budget constraints at the General Services Administration.

Comprehensive information on sheltered workshops' participation in the set-aside program also were not available from associations that represent sheltered workshops. In April 1990, one association conducted a limited survey on participation levels in the set-aside program, but in general these associations do not collect such data.

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program to the JWOD Program is probably the major reason his organization's membership has avoided the set-aside program.

In April 1990, the National Association of Rehabilitation Facilities (NARF) surveyed the 160 facilities in its membership that receive NARF's Commerce Business Daily Review to obtain information on their participation in the set-aside program. Of the 35 facilities (workshops) that had responded to the survey as of May 30, 1990, 23 answered a question that sought to determine what effect the legislative prohibition against switching items to the JWOD list has had on the facilities' participation in the set-aside program. When asked if they would be more inclined to bid on a set-aside contract if it could be converted to a JWOD contract, 15 of 23 said they would. Five other facilities said that although the provision would not preclude their participation, they would be more inclined to participate if conversion were allowed. (Note: Because of the small number of responses, these survey results must be interpreted with caution, as they may not represent NARF's entire membership.)

In a Senate Small Business Committee report issued in 1986, when a bill was introduced to allow sheltered workshops to participate in the small business set-aside program, the Committee stated that it was cognizant of concerns that sheltered workshops could underbid on set-aside contracts. The Senate Committee was also aware of concerns that once a workshop was awarded a set-aside contract, it could apply to have the product or service added to the list of items permanently awarded to sheltered workshops under the JWOD Program.

The 1986 bill did not pass but was reintroduced in 1988. Again, members of the Senate Small Business Committee sought to strike a balance between the interests of handicapped individuals and the interests of small businesses. Several organizations representing sheltered workshops supported the Senate version of the proposed bill, which would have limited, but would not eliminate, the total dollar amount of set-aside contracts that could be converted to the JWOD Program. In conference, the Senate and House Committees on Small Business decided to prohibit set-aside contracts from being converted to the JWOD Program, and this prohibition was included as part of the program's authorizing legislation.

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## Conclusions

Although actual data were not available at the time of our review (May 1990), it appears that sheltered workshops' participation in the small business set-aside program has been minimal. While Public Law 100-590 authorized sheltered workshops to participate in the program, it also sought to protect for-profit small businesses from any severe economic harm such participation might cause by placing a ceiling on the total dollar amount of contracts that could be awarded to workshops in any one year and by prohibiting the transfer of competitively awarded set-aside contracts to permanent awards under the JWOD Program. However, the temporary nature of set-aside contracts and the prohibition on transferring items to the JWOD Program appear to have made bidding on set-aside contracts undesirable and/or uneconomical for many workshops. In the opinion of officials from federal agencies and organizations representing sheltered workshops, some workshops are not aware that they are eligible to participate in the program and/or do not know how to bid on federal set-aside contracts. The officials representing sheltered workshop organizations believe that this has discouraged workshops from participating in the program. Unless changes are made to alter or remove these barriers, workshops may not increase their participation.

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## Matters for Consideration by the Congress

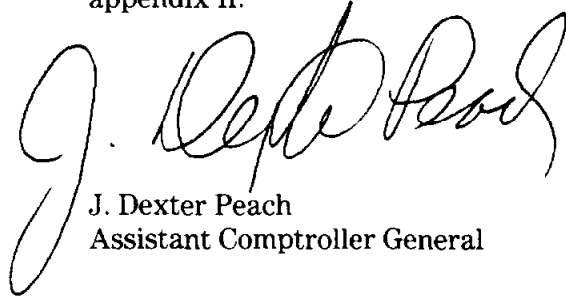
If greater participation in the small business set-aside program is to be achieved, Public Law 100-590 needs to be modified to reduce or remove some of the barriers. Specifically, the Congress may wish to consider (1) designating a federal agency responsible for informing sheltered workshops about the set-aside program and providing training on how to bid on federal contracts and (2) allowing items supplied by workshops under set-aside contracts to be transferred to the list of items supplied exclusively by workshops under the JWOD Program. If desired, the total dollar amount of contracts that can be transferred could be limited to a portion of the annual ceiling imposed by the existing legislation.

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To determine the availability of data needed to measure the impact of sheltered workshops' contracts on for-profit small businesses, we reviewed the reporting requirements required by the program's authorizing legislation, the Federal Acquisition Regulation, and the relevant federal agencies' regulations. We interviewed officials at OFPP and SBA—the federal agencies responsible for collecting and analyzing data on participation levels and monitoring the program—and the Committee for Purchase From the Blind and Other Severely Handicapped.

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reached on (202) 275-5525. Major contributors to this report are listed in appendix II.



J. Dexter Peach  
Assistant Comptroller General

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# Major Contributors to This Report

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# Federal Government Units and Sheltered Workshop Organizations Contacted by GAO

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## Federal Government

Committee for Purchase From the Blind and Other Severely Handicapped  
Office of Management and Budget, Office of Federal Procurement Policy  
Small Business Administration, Office of Procurement Policy and Liaison

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## Organizations Representing Sheltered Workshops

Association for Retarded Citizens  
General Council for Workshops for the Blind  
Goodwill Industries of America, Inc.  
National Association of Rehabilitation Facilities  
National Easter Seal Society  
National Industries for the Blind  
National Industries for the Severely Handicapped  
United Cerebral Palsy Association

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## Abbreviations

FPDC	Federal Procurement Data Center
GAO	General Accounting Office
JWOD	Javits-Wagner-O'Day
NARF	National Association of Rehabilitation Facilities
SBA	Small Business Administration
OFPP	Office of Federal Procurement Policy

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Since no federal data were available at the time of our review to measure sheltered workshops' initial participation in the set-aside program, we interviewed officials from the major organizations representing sheltered workshops. See appendix I for a list of the entities we contacted.

The Small Business Administration Reauthorization and Amendment Act of 1988 requires GAO to report on how contracts awarded to sheltered workshops under the small business set-aside program have affected for-profit small businesses for fiscal years 1989 through 1991. The report is to be issued by September 30, 1992. To fulfill this legislative mandate, we plan to examine the program's effect on individual small businesses as well as on small businesses aggregated within various industries. We will define impact as the dollar amount of federal contracts awarded to sheltered workshops in competition with for-profit small businesses under the set-aside program. To assess this impact, we will (1) analyze federal data; (2) meet with officials representing various federal agencies, sheltered workshops, and small businesses to obtain their views on the impact of the program; and (3) gather any additional documentation available.

We discussed the contents of this report with officials from SBA, OFPP, and the Committee for Purchase From the Blind and Other Severely Handicapped, who generally agreed with the information presented. Their suggested revisions have been incorporated where appropriate. However, as agreed with your offices, we did not obtain formal agency comments on this report.

As arranged with your offices, unless you publicly announced its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will provide copies of the report to the Administrator of SBA, the Director of the Office of Management and Budget, the Administrator of OFPP, the Director of the Committee for Purchase From the Blind and Other Severely Handicapped, and other entities listed in appendix I. We will make copies available to others upon request.

This report was prepared under the direction of John M. Ols, Jr., Director, Housing and Community Development Issues, who may be

## Insufficient Information and Training on the Set-Aside Program

According to federal agency officials responsible for monitoring the small business set-aside program, many sheltered workshops do not know they are eligible to participate. Officials from organizations representing sheltered workshops told us that insufficient knowledge about who can participate and how the set-aside program works contributes to low participation levels. For example:

- The Director of SBA's Office of Procurement Policy and Liaison believes that few nonprofit organizations know that sheltered workshops are eligible to participate in the set-aside program because it has not been publicized. He also said that it would take a couple of years for contracting officers throughout the federal government to become familiar with this facet of the set-aside program and, as a result, participation would not be widespread before 1991. He said that contracting officers' lack of information is not a widespread problem, but that personnel turnover and the absence of training for contracting officers could affect the program.
- The Executive Director of the Committee for Purchase From the Blind and Other Severely Handicapped said that many workshops are not aware of specific federal contracts available under small business set-asides. She also said that the National Industries for the Severely Handicapped, which was established to help workshops pursue federal contracts under the JWOD Program, does not have the resources necessary to train workshop personnel on how to bid on set-aside contracts.

Of the 35 facilities that had responded to the previously mentioned NARF survey, only 7 had bid on set-aside contracts. One NARF official believes that few had placed bids because most facilities were unfamiliar with the government procurement process.

The Senate and House conferees on the bill that became Public Law 100-590 recognized the need for sheltered workshops to become more familiar with the federal government's competitive procurement process, especially bid preparation. They encouraged SBA to work with the appropriate organizations in developing training programs. However, the final legislation did not designate SBA, or any other federal agency, responsible for program outreach and training. According to the Director of SBA's Office Of Procurement Policy and Liaison, SBA has been unable to initiate any action because of budget constraints. Furthermore, as of April 1990, only one private organization (NARF) had informed us that it had provided its member workshops with information and training on the set-aside program.

## Sheltered Workshops' Participation in Set-Aside Program Appears Low

Officials from SBA and OFPP said that they could not determine the level of sheltered workshops' participation in the small business set-aside program because federal data were not available. But officials from organizations that represent sheltered workshops told us that workshops' participation has been minimal. They cited several reasons.

## Authorizing Legislation Discourages Sheltered Workshops' Participation

Sheltered workshop officials believe that the program's authorizing legislation is a major factor contributing to the low participation levels because it prohibits adding any items supplied by sheltered workshops under competitively bid set-aside contracts to the list of products and/or services that are permanently awarded to sheltered workshops under the JWOD Program. For example:

- The Executive Director of the Committee for Purchase From the Blind and Other Severely Handicapped, a presidentially appointed committee responsible for increasing employment opportunities for the blind and other severely handicapped, said sheltered workshops want the stability that the long-term contracts available under the JWOD Program provide. This stability is not available in the set-aside program. The Committee's General Counsel said the legislative prohibition on switching items to the JWOD Program is the major reason for the low participation levels.
- The President of Goodwill Industries of America, Inc., said it is difficult to justify the capital expenditures needed for the production of an item under a set-aside contract because the workshop may not receive subsequent contracts. By contrast, under the JWOD Program, the same capital expenditures may be feasible because the permanent award allows the workshops to take advantage of the long-term amortization of capital equipment.
- An official from the National Easter Seal Society said that workshops have not participated in the set-aside program because they cannot switch a product or service into the JWOD Program if they have provided the product or service under a set-aside contract. The short-term, or "temporary," nature of set-aside contracts makes it difficult for workshops to participate because of the extended training and learning curve many disabled employees need.
- The President of the General Council for Workshops for the Blind believes that most of his organization's members have not participated in the set-aside program because of the prohibition against switching items from this program to the JWOD Program.
- An official for the National Industries for the Blind said the legislative provision that prohibits switching an item or service from the set-aside



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(3) some sheltered workshops do not know how to bid on federal set-aside contracts.

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## Background

Sheltered workshops are charitable organizations or workshops conducted not for profit but for the purpose of carrying out a recognized program of rehabilitation for handicapped workers, and/or providing such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature. On November 3, 1988, Public Law 100-590 was enacted, permitting sheltered workshops to compete for federal government contracts set aside for small businesses. These contracts involve procurements in which competitive bidding is restricted to for-profit firms that qualify as small businesses under the business-size standards established by the Small Business Administration (SBA). While this legislation allows sheltered workshops to compete against for-profit small businesses, a workshop is not awarded a contract unless it provides the lowest qualifying bid. Furthermore, each time the contract expires, the workshop must again compete for any follow-on contract. Preliminary data for fiscal year 1989 reveal that small business set-aside contracts accounted for \$12.5 billion, or about 7 percent of the \$184.5 billion in federal procurements reported to the General Services Administration's Federal Procurement Data Center (FPDC). FPDC operates the Federal Procurement Data System, which is used to develop consolidated, governmentwide information about federal purchases for OFPP.

Public Law 100-590 states that SBA's Administrator shall monitor and evaluate the participation of sheltered workshops to ensure that the total dollar amount of contract awards during any fiscal year does not exceed the ceiling amount established for that year in the law—\$30 million in fiscal year 1989, \$40 million in fiscal year 1990, and \$50 million in each of fiscal years 1991, 1992, and 1993. Federal agencies (and departments) having procurement powers are required by the law to report to OFPP on each set-aside contract awarded to a sheltered workshop and the amount of the next higher bid submitted by a for-profit small business. OFPP plans to collect these submitted data, through FPDC, and report them to SBA on a quarterly basis.

The law also prohibits items purchased from sheltered workshops from being added to the list of items purchased by federal agencies on a non-competitive basis under provisions of the JWOD Act. In 1938, the Wagner-O'Day Act established a program that gave preferential treatment in

