

## Opportunities for Too Few? Oversight of Federal Employment Programs for Persons with Disabilities

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Testimony

Thank you for this invitation to discuss the Javits-Wagner-O'Day (JWOD) Program, the largest single source of employment opportunities for people with severe disabilities in the United States with operations in every state. I am Tony Young, Senior Public Policy Director for NISH. I wear many hats today as I speak to you. I am a person with a severe disability and a private citizen with decades of experience in the disability field. However, I am not here to represent the JWOD Federal oversight agency, The Committee for Purchase from People Who are Blind or Severely Disabled, or NISH's sister agency, National Industries for the Blind.

### History & Background

#### NISH and the Javits-Wagner-O'Day Program

The Javits-Wagner-O'Day (JWOD) Program provides employment opportunities for more than 45,000 Americans who are blind or have other severe disabilities through Government purchases of services and products provided by nonprofit agencies employing such individuals throughout the country. In 1938, the Wagner-O'Day Act was passed under President Franklin D. Roosevelt in order to provide employment opportunities for people who are blind by allowing them to manufacture products to sell to the Federal Government.

In 1971, under the leadership of Senator Jacob Javits, Congress amended this Act (41 U.S.C. 46-48c) to include people with severe disabilities and allow the Program to also provide services to the Federal Government. More than 60 years later, this extraordinary socioeconomic Program provides Federal customers with a wide array of quality services and products, while providing thousands of people with severe disabilities real jobs and increased independence.

In 1974, NISH was incorporated as the second Central Nonprofit Agency to implement the 1971 amendments to the Program. The first JWOD service contract, which is still in operation today, was for grounds maintenance services at the Naval Air Station Whidbey Island, Washington.

Through the Javits-Wagner-O'Day Program, the Federal Government can use its acquisition policies to support important socioeconomic goals while demonstrating integrity and good stewardship of Federal contracting dollars. The Program is a cost-effective way to help people who are blind or have severe disabilities achieve greater independence as it enables many individuals to reduce dependence on Government support and join the ranks of taxpayers.

NISH is a national nonprofit agency whose mission is to create employment opportunities for people with severe disabilities by securing Federal contracts through the JWOD

Program for its network of community-based, nonprofit agencies. Currently, more than 600 nonprofit agencies operate through the JWOD Program. NISH also works with approximately 1,400 affiliated nonprofit agencies to help build their capacity and enhance their performance. These include many independent organizations as well as nearly 200 nonprofit agencies that are affiliated with large, well-known National Nonprofit Agencies that include The Arc of the United States, American Congress of Community Supports & Employment Services, Goodwill Industries International, Inc., International Association of Jewish Vocational Services, Easter Seals, and United Cerebral Palsy.

#### The Past 20 Years of Services and Products (1985-2005)

At its inception, the JWOD Program offered the purchasing of products to the Federal Government under the Wagner-O'Day Act. When the Act was expanded to include people with severe disabilities, the Javits-Wagner-O'Day Act authorized nonprofit agencies to provide not only products, but also services to the Federal Government. This occurred with the addition of NISH's first service contract in 1973. By 1979, the majority of jobs were still in the manufacturing arena (92 percent products, 8 percent services). However, the past 20 years reflect the Federal Government's growth in outsourcing service projects. In 1985, 55 percent of the JWOD jobs were in the service industry versus 45 percent that were in manufacturing settings. Today, 70 percent of employment through the JWOD Program is in integrated service work, while only 30 percent is in manufacturing.

Over the years, the JWOD Program has diversified its services and products through innovative lines of business. JWOD employees, through NISH, provide not only such services as facility management, custodial and ground maintenance services for key locations around the country, but also fleet management, document destruction, secure mail center services and others. Therefore, while very few people think they are familiar with the JWOD Program, nearly every American has come into contact with the Program. If you have ever entered into the United States through a Border Station in Canada or Mexico, or been on almost every defense installation in this country, or toured the Statue of Liberty, Library of Congress, or eight of the Presidential Libraries, then you have most likely been in contact with people with severe disabilities working in the JWOD Program. Additionally, if during tax season, you picked up the phone to call the IRS Customer Service Line, chances are good that the customer service person who answered your call is a person with a disability working out of their home through the JWOD Program. And, you have seen the impact of the JWOD Program on TV when watching American soldiers in their battle dress uniforms or wearing chemical protective over-garments. These items have all been produced by people with severe disabilities through the JWOD Program.

The NISH Board of Directors exercises oversight to ensure that the mission of the organization is fulfilled.. The Board is comprised of 27 voting members and an additional seven advisory members who have expertise and skills in a variety of areas, including JWOD employees (past and present), legal, advocacy, finance, commercial and nonprofit executive experience and a myriad of other backgrounds. For example, the current chair is executive director of a state protection and advocacy service; the past chair is a

representative from small business; and the current treasurer is former JWOD Federal Defense customer. Many of these Board members have disabilities themselves, including three of the five officers.

In addition to the compliance functions performed by the Committee for Purchase, NISH staff also conducts program oversight of NPA compliance with JWOD Program and other Federal regulations and policies. As directed by the Committee for Purchase, NISH expects its affiliated NPAs to meet the letter and spirit of all regulations, including the JWOD direct labor hour ratio and disability determination requirements. NISH supports their ability to comply with rules from the Department of Labor, OSHA, IRS and other Federal and state entities through a comprehensive program of training and technical assistance. NISH Regulatory Compliance staff members conduct regular on-site and desktop reviews of all its producing NPAs. Cooperative training programs with Federal agencies like the Department of Labor ensure consistent interpretation of all standards, such as the complex FLSA 14(c) regulations. Findings from NISH compliance activities are reported to the Committee for Purchase for monitoring and review.

#### NPA Executive Compensation and Governance

The Committee published a notice of proposed rulemaking on November 12, 2004 (69 FR 65395) proposing to amend its regulations by requiring nonprofit agencies awarded Government contracts under the authority of the JWOD Act, as well as central nonprofit agencies designated by the Committee and nonprofit agencies that would like to qualify for participation in the JWOD Program, to comply with new governance standards. NISH expressed strong support for the general intent of the Committee. The Committee is continually working to improve transparency and governance in the JWOD Program.

#### NISH/JWOD Adds Value

##### Serving the Federal Customer with Quality at a Fair Price

The JWOD Program, a priority source of supply, collaborates with its Federal customers to satisfy their needs with quality services and products, and leverages a national network of nonprofit agencies to expand the array of solutions for government customers.. These nonprofit agencies are dedicated to training and employing individuals with severe disabilities.

Through the JWOD Program, NISH identifies opportunities to assist NPAs in developing and implementing new projects. NISH and the NPAs have the expertise necessary to provide quality contract management services to the Government. By remaining responsive and sensitive to the customers' needs and concerns, NISH and the NPAs form strong, long-term business partnerships with individuals and organizations in every sector of the Federal Government.

NISH is one the largest sources of quality support services to Federal agencies. In 2004, NISH NPAs delivered a wide variety of support services to Federal agencies. These include such services as secure document destruction for the IRS, military dining

services, fleet management, commissary shelf stocking, grounds keeping, and custodial services.

People with severe disabilities also produced 86 percent of the Government requirement for Chemical Protective Suits. They met the need for duffel bags; battle dress uniforms, cold/wet weather protective garments and underwear, various military clothing and equipment, weapons, including the magazine for the M16 rifle; the new Improved First Aid Kit, Fleece Jackets under its Rapid fielding initiative and the new Army Combat Uniform. Every NISH product has consistently met specification while assembling a record that equals or exceeds that of commercial production.

People with severe disabilities also supply food for use in the Women, Infants and Children Program and the School Lunch Program. They procure, package and ship complete meals for National Guard units and package nonfat dry milk to support the National Nonprofit Humanitarian Initiative to donate nonfat dry milk to nonprofit faith-based and organizations.

What is especially important is that, particularly in the arena of apparel and other textile related items, DoD is mandated to buy domestically produced items under the guidelines of the Defense Appropriations Act. While this helps the domestic industrial base, we all recognize that import penetration, particularly from China, has decimated the number of manufacturing plants in this country. Every year there are fewer and fewer and many of them have dedicated 100 percents of their capacity to the military market as their commercial customers go off shore to bring in cheaper goods. NISH nonprofit agencies have become a greater influence in this manufacturing market. They are available to expand production because we have dedicated managers who are willing to put in that extra effort to support their military customer and because the unemployment for people with severe disabilities is at about 70 percent. These are people who want and need to work, but the opportunities have been limited. We at NISH recognize the current need to share production with our private sector counterparts, but also understand that as the nonmilitary work continues to dry up, many will not be able to sustain their businesses solely on DoD production.

In addition to the employment opportunities developed through the JWOD Program, NISH offers more than 4,000 participants to take advantage of the various training events through NISH annually. The training program offers more than 350 e-learning courses with over 1300 participants through the NISH Institute Online, 250 classroom-based courses with approximately 1500 participants, 20 book clubs with 250 participants and more than 100 NPAs taking advantage of the NISH Lending Library.

NISH also has the capability to respond rapidly to unforeseen emergency needs of the NPAs and the people they employ. In the recent tragedies of hurricanes Katrina and Rita, the NISH Board and the Committee for Purchase responded immediately to be of service to those NPAs impacted. The Executive Committee of the NISH Board met in emergency session to review and approve authority to allocate substantial resources for immediate support of JWOD employees impacted by the storm, expenditures necessary to restart

JWOD projects or secure new work/projects, and intermediate/long-term rebuilding needs.

### How We Are Doing

#### Jobs, Wages, and Benefits

In 2004, NISH nonprofit agencies, primarily serving people with severe disabilities reported a record 41,154 JWOD jobs for people with severe disabilities who earned an average annual hourly wage of \$9.14. The average hourly wage paid to employees in the JWOD Program significantly exceeds by nearly \$4.00 the federal minimum wage of \$5.15 per hour. the Federal minimum wage. All JWOD Program employees are paid in accordance with Department of Labor rules, including the Fair Labor Standards Act and, where applicable, the Service Contract Act. The Department of Labor rules enable public and private employers to obtain special certificates to pay commensurate wages based on documented productivity measures. Some of the agencies that participate in the JWOD Program use these provisions to extend opportunities for participation in the nation's workforce to people with the most severe disabilities, while ensuring a fair contract price for the Federal customer.

Also, the JWOD Program serves as an engine to create many more employment opportunities in state and local government and the private sector. The economic benefits resonate throughout the local community, including small businesses. During 2004, JWOD producing NPAs also reported a total of more than 135,000 jobs for people with disabilities supporting a wide range of companies, organizations and government customers. Additionally, more than 29,000 people with severe disabilities were placed in jobs in the private and public sectors in communities throughout the United States. These placements in community-based jobs were a direct result of the extensive training and supports offered by NISH NPAs. NISH and its affiliated NPAs have continually added services and products to the offerings made to federal agencies, resulting in more types of employment opportunities over their 30-year history. The NISH 2004 Annual Report contains more detail on the history and scope of NISH activity within the JWOD Program.

About 70 percent of these jobs are in integrated, community-based settings as recognized by the Rehabilitation Services Administration. These jobs are subject to the Service Contract Act. Each worker receives Health & Welfare (H&W) benefits for each hour worked, including health, dental, and life insurance; retirement; vacation and sick leave; and similar benefits.

#### Satisfaction of Employees with Disabilities

In 2005 NISH completed an independent survey of its JWOD employees. This study found that 76 percent of employees reported that they were very happy with their jobs. Only three percent were not at all happy with their work. Overwhelmingly, employees were also proud of the work they did. Approximately 79 percent reported they were very proud of the products their company makes, sells, or otherwise supplies, whereas only three percent said they were not proud at all of their work. When rating their jobs, approximately 99 percent of the employees reported the jobs were either excellent (53

percent) or good (46 percent). Finally, 94 percent of employees reported that they would recommend their company to a friend who was looking for work.

Below is a personal story that demonstrates how the Program offers independence to employees.

An important component of employee satisfaction is choice. To Carson R., an employee of the Jeanne Bussard Center in Frederick, Md., choice was actually one of the largest factors in his successful transition to employment. Carson, diagnosed with learning disabilities and mental retardation, was referred to the NPA by the Maryland Division of Rehabilitation Services in 2002.

During his evaluation, Carson worked jobs in several areas such as assembly, document processing and laundry. While he performed well, Carson was unsatisfied with these options. When asked what work he would prefer, Carson chose a position as a shelf stocker at the Fort Detrick Commissary. Supervisors initially described Carson as shy and withdrawn, but within a few months, his confidence grew.

Carson moved from part time to full-time employment. He continually learned new tasks such as order processing, eventually ordering stock for the entire store on a regular basis. Because of the choices offered to him through the JWOD Program, Carson had the opportunity to choose his work. His resulting success has enabled him to become much more independent. Currently Carson, who had never worked in the community before JWOD, is saving to buy his own car.

#### Taxpayer Savings

People with severe disabilities working in JWOD jobs do more than deliver high quality services and products to Federal agencies at a fair price; they also return value to taxpayers. A NISH study evaluated how employment in JWOD commissary services, food service programs and Public Building Service custodial projects affects workers' use of government entitlements. These studies found a substantial return on taxpayer investment in the JWOD Program.

Commissary: Employing individuals with disabilities in JWOD commissary programs saves the Federal and state governments an estimated \$2.75 million annually through the reduction of entitlements paid to these individuals. These workers also increased their payments to the government through income and payroll taxes, which amount to an estimated \$3.9 million yearly. In all, by employing 2,134 workers with disabilities in 2003, these JWOD commissary contracts have a net impact on government balance sheets of \$6.65 million. This is an annual savings of \$3,138 per worker. This number has increased every year since this study was completed.

Food Service: Employing individuals with disabilities in JWOD food service programs saves the federal and state governments an estimated \$3.7 million annually through the reduction of entitlements paid to these individuals. These workers also increase their payments to the government through income and payroll taxes, which amount to an estimated \$4.9 million yearly. In all, by employing 2,809 workers with disabilities, these

JWOD food service contracts have a net impact on government balance sheets of \$8.6 million. This number has increased every year's since this study was completed. This is an annual savings of \$3,053 per worker.

Custodial: Employing individuals with disabilities in JWOD Public Building Service custodial programs saves both the federal and state governments an estimated \$15.7 million annually through the reduction of entitlements paid to these individuals. In addition, JWOD employment increases the payments these workers make to the government through income and payroll taxes, totaling an additional \$15.8 million yearly. Thus, by employing 5,176 workers with disabilities, these JWOD custodial contracts have a net impact on government balance sheets of \$31.5 million. This number has increased every year since this study was completed. This is an annual savings of \$6,084 per worker.

### Federal Customer Satisfaction

In 2003, NISH surveyed more than 500 Federal organizations with NISH contracts. Respondents were primarily in acquisition/contracting functions. More than four out of five of the respondents (85 percent) were on the positive end of the scale in rating their satisfaction with the JWOD Program with 44 percent of these being "very satisfied." More than four out of five of the respondents (86 percent) said that they would recommend the JWOD Program to other Federal customers. This baseline survey is supplemented by continuous electronic opinion research made available to Federal customers after every contact.

### Challenges and Opportunities for Improvement

#### Changing Global Services Economy

While NISH is proud to report that in 2004 almost 42,000 people with severe disabilities were employed through JWOD/NISH, the reality is that there are millions of people with severe disabilities who want to work, but remain unemployed. Contributing to this challenge is the fact that the global services economy is requiring a constantly changing workforce in the United States. To address this situation, NISH has established a team of strategic business development experts that are pursuing employment opportunities in diverse lines of business that offer greater opportunities for skill training and advancement. These include jobs such as complete facility management, medical transcription, call center services, fleet management, secure mail center services, and document destruction just to mention a few.

Employment opportunities created through the JWOD Program have increased substantially over the last two decades. During this same time period, employment for people with severe disabilities in the commercial sector has remained flat or decreased slightly, and employment for people with severe disabilities in the Federal government has significantly declined. One reason for this discrepancy is that JWOD can offer

appropriate job training and employment supports to their employees with severe disabilities that enable them to enter into and successfully retain long term employment. These services and supports are either not available or available only in a limited scope from private sector employers and the Federal government. The availability of these employment supports, coupled with good wages and health and welfare benefits, leads many people with severe disabilities to choose to stay employed within the JWOD Program rather than changing to a commercial employer. Even with this fact, in 2004, 2,310 workers with severe disabilities were placed in employment outside the NPA from JWOD jobs. As fewer and fewer private sector employers offer jobs with health care benefits, fewer people with severe disabilities will choose this less attractive option.

#### Low Productivity with Certain Disability Populations

Many people with severe disabilities who are eligible to participate in the JWOD Program have challenges to their productivity. These challenges limit the economical feasibility of hiring individuals in both the private and public sectors many times. NISH has taken on this challenge in several ways. First, we have created a Productivity Enhancement Initiative that is multi faceted. Five major project areas are incorporated to implement our assistive technology (AT) and productivity enhancement efforts. These five areas are direct assistance, AT best practices and awareness, capacity-building models, new employment approaches and NISH internal efforts. Internally, our rehabilitation engineers are demonstrating best practices through pilot projects where we are using assistive technology and reengineering processes to meet this challenge. Our business development team is creating jobs in new lines of business that will be better suited for applying job carving techniques so that productivity will not limit a person's ability to work. Scott Mikelson's story is a good example of how a person with severe disability has the opportunity, time, and support to gradually advance their careers.

Scott, or Scottie, as his friends at work call him, has worked for Skookum, a Washington state NISH NPA since 1993. Scottie started in the Skookum Jump Rope Company after transferring from the Special Education Program at the Port Townsend School District. He was non-communicative and could not make eye contact with his fellow workers. His productivity level was a mere 39 percent.

In 1996, Scottie improved his productivity to 51 percent which allowed him to transfer to a JWOD contract at Indian Island, Washington. He was able to truly demonstrate his skills and worked with supervisors to improve his productivity. He overcame his inability to make eye contact with fellow works and customers. Most importantly, he became a model worker and increased his productivity to 74 percent.

One year later, he moved to a janitorial job at Puget Sound Naval Shipyard in Bremerton. He was assigned the largest building on the base, a huge move for a young man that didn't feel comfortable in new surroundings. Scottie has received numerous awards, including one from the Deputy Director of the Defense Logistics Agency for "...performing his tasks amazing well and his professionalism."

These new lines of business include the following:

IRS Document Destruction – People with severe disabilities provide secure document destruction (SDD) services under the JWOD Program for all IRS offices in the western United States. This line of business lends itself to similar work in the commercial sector as a means to help people transition their skills.

Laundry Services – This line of business offers an array of positions that are machine driven thus an individual's productivity is irrelevant. Much work in this area is found in the commercial hospital field.

#### Employment for Diverse Disability Populations

Serving the diverse disability populations that participate in the JWOD Program, NISH is making great strides in creating jobs in non-traditional lines of business. With greater variation in our job profile, we can offer more choice to those we serve. These jobs lend themselves to more opportunity for integration and upward mobility. A few of these options follow.

Fleet Management - One of the major FY 2004 new business line initiatives is fleet management services. This business line has the potential to create challenging new job opportunities for individuals with many different types of barriers to employment. Fleet management is a good line of business because the service involves a wide array of activities, in various disciplines and consequently offers a variety of employment opportunities. The most labor-intensive facet of fleet management is vehicle maintenance and repair, which requires technical expertise and physical coordination, strength, and stamina. Fleet management services also encompass fleet maintenance which is the repair and maintenance of vehicles. During FY 2004, NISH explored such services with the US Army. All of these fleet management business lines will be pursued further in FY 2005. NISH is partnering with the Department of Labor, ATELS division to create a certified apprenticeship program. This will allow people with significant barriers to learn the various skills that lead up to journeymen mechanic competency.

Medical Record Transcription -- Medical record transcription is a home-based employment opportunity. This initiative will provide much needed employment to people with severe disabilities who are largely restricted to work in their homes. Without jobs such as these, home-bound people with disabilities would never be able to enter the U.S. workforce. The training model used will allow those who develop the skill sets over an extended time to become "certified" medical transcriptionists, which is a wide-open field in the private sector.

IRS Call Centers -- IRS call centers offer a home-based employment opportunity that involves answering telephone calls from the public who are requesting IRS forms and publications. Additional opportunities exist during the three-month tax season. This project serves individuals who are homebound due to the nature of their disability.

In 2003 NISH began a partnership through the signing of a Memorandum of Understanding (MOU) that is a win-win proposition for both veterans with disabilities and NISH NPAs. Through this MOU with the Veteran's Health Administration, veterans with severe disabilities and serious mental illness are referred by the Veteran's Administration to NISH NPAs for employment on JWOD contracts.

To some veterans with disabilities, the JWOD Program represents a lifeline to remaining independent in the face of significant emotional and physical challenges. Anthony Richard, a former U.S. Marine, was forced to end his military service after suffering a severe neck injury when a 450-pound door fell, striking him in the head. Challenge Unlimited, a NPA located in Alton, Ill., hired and employed Anthony on a mailroom contract until he obtained a position in the public sector with the Iron Workers Union in East St. Louis, Mo.

Unfortunately, while working with the Union, Anthony's bravery and willpower were tested again. He was assaulted by a co-worker, sustaining injuries that diminished his ability to maintain his equilibrium and leaving his mind in a whirlwind. Anthony returned to Challenge Unlimited and was placed on a JWOD contract as a custodian at a General Services Administration (GSA) facility.

Despite immense challenges, Anthony's work at the facility progressed, and supervisors recommended him for a demanding job that made him solely responsible for maintenance of the facility's 62.5 outside acres. Despite his severe injuries, the JWOD Program allowed Anthony to rebuild his confidence and continue supporting his family until his final transition to commercial employment with a small business contractor at the GSA facility.

### Misperceptions

Based upon a 2005 benchmark study of Federal customers, the disability community, nonprofit agencies, and the general public, the JWOD Program is challenged by many misperceptions. One of the top weaknesses expressed by Federal customers is the lack of use and/or price of the Program. The disability community cited the Program's inaccessibility, while nonprofit agencies identified bureaucracy as a main weakness.

Thus, there are many misperceptions surrounding the Program. One high-level misperception is that people with the most severe disabilities can not be employed in a commercial competitive environment. Not only is this felt by the public in general but it is also prevalent in both the Federal and commercial employment sectors. In an effort to eliminate this prejudice, the JWOD Program has launched a national public awareness and advertising campaign promoting the capabilities of people with severe disabilities and the quality of work performed by them. Through on-going efforts to educate Federal procurement managers, acquisition officers, and other contracting officials NISH is continually educating decision makers about the true abilities of people with severe disabilities to meet their needs of quality services and products at a fair market price.

Another misperception is that the JWOD Program is not consistent with the broader disability communities' employment philosophy that people with severe disabilities should be employed in an all inclusive work environment. The reality is that the majority of jobs (70 percent services vs. 30 percent manufacturing) offered by NISH are in community-based, integrated service settings including Federal buildings and military installations throughout our country. Thus a majority of the jobs in the Program offer wages that are generally higher than those found within their local communities with benefits attached. Furthermore, NISH NPAs have assisted and continue to support over 29,000 consumers with severe disabilities in both competitive and supported employment jobs outside the Federal sector. Jobs offered through the JWOD Program provide for self-determination by allowing people with severe disabilities to make informed choices about their wages, benefits, and opportunities for advancement.

As you may know, Section 5(3) (C) of the JWOD Act requires NPAs with JWOD Projects to maintain a non-profit agency-wide ratio of 75 percent of its direct labor hours by people with severe disabilities on both JWOD and non-JWOD work. Many people incorrectly assume that this forces all services and products delivered by JWOD to be worked in congregate settings. In fact, less than one-third of jobs are in congregate settings. JWOD NPAs utilize a variety of strategies and approaches to offer integrated employment in our services and products opportunities to people with severe disabilities. In fact, as a group, NISH NPAs are the largest providers of supported employment jobs in the nation.

Some critics of the JWOD Program insist that the only acceptable employment outcome for people with disabilities is a job at a for-profit employer in a position with a career ladder and individualized supports. In an ideal world, with unlimited employment support resources, this would most certainly be true. The reality is that we do not live in an ideal world. We operate in a world of limited resources for job training and employment supports. The millions of people with disabilities who are unemployed compete with each other as well as other disadvantaged groups for scarce public resources for education, training, transportation, housing, medical care, and long term supports.

JWOD jobs do allow for career advancement.

Tom Miller from Rapid City, SD, is just one of the many success stories of the JWOD Program. Tom has been involved with the JWOD Program for 12 years, initially working as a mess attendant at Ellsworth Air Force Base in South Dakota. Since that time, Tom has moved into a supervisory position. As such, Tom has first-hand understanding of the opportunities and challenges of people with disabilities working on JWOD contracts. As a young boy, Tom was told that he would never be able to achieve his goals due to his disability. Perhaps this is when Tom became committed to not only achieving his own personal goals, but to also becoming a voice for those who had received similar messages. Tom has dedicated his working life to improving employment, integration and choice for individuals with disabilities. He is involved with "People First," a nationwide self-advocacy organization. In this capacity, Tom does public speaking on the

power of employment in reaching one's goals. He served six years on the NISH Board of Directors as a JWOD Program Participant and assumed a leadership role as the chair of the Awards Committee. Further, Tom has been active in NISH's grassroots advocacy program – always forthright to share with members of Congress the philosophy of the JWOD Program, as well as the perspectives and needs of those employed on JWOD contracts. In 2004, 316 people with severe disabilities were promoted into management positions on projects. In 2005, NISH began to offer new financial assistance grants to NPAs for recruitment, and relocation, training and/or accommodations for people with disabilities to move into management.

#### Future Initiatives

Even with this solid foundation NISH knows there is much more to do. Even with an average hourly wage of \$9.14 there are those who earn less than the Federal minimum wage. Even with 2,310 community job placements there are those who want to strike out on their own. Even with our new lines of business there are those who seek other challenges. Working with emerging technologies, rehabilitation strategies, and innovative approaches, JWOD and NISH have crafted dynamic strategic plans to address these needs. The strategic plans, which are presented in Appendices F and G, include goals and objectives for NISH and the JWOD program.

#### Institute

The NISH FY 2005-2007 business plan incorporated exploration of an Institute on Economic Empowerment For Individuals With Significant Disability-Related Barriers to Employment. This Institute would align with and carry out several key goals and objectives from the JWOD Program and NISH strategic plans. The implementation of the proposed Institute on Economic Empowerment would directly align with and support implementation of strategic goals and objectives for NISH (Goal 1 Employment Opportunities) and the JWOD program (Goal 1 People Who Are Blind or Have Severe Disabilities and Goal 5 Market Development...Underserved Populations). More specifically, the Institute would directly align with the following SMART goals (specific, measurable, achievable, realistic, and time-bound):

- Increase employment opportunities and informed choices
- Increase wages and benefits
- Enhance opportunities for advancement
- Create, design, and reengineer jobs as a means of maximizing productivity and wages
- Provide personally satisfying employment opportunities
- Facilitate greater economic independence and self-sufficiency

The Institute provides a clear path to address the challenges identified in the NISH Business Plan in defining what constitutes quality employment opportunities, and how to create a wider array of options for people with significant disability-related barriers to employment.

#### JWOD/NISH and Military Dining Services: It's a matter of jobs

In respect to the disagreement between the JWOD Program and the for-profit Randolph-

Sheppard (R-S) Program, NISH believes that military dining services are beyond the scope of the R-S definition of operation of cafeterias; that recent court decisions are based upon an incorrect interpretation of the law; and that the public policy goal of employing people who are blind or have severe disabilities is better served in this area by the JWOD Program than the R-S Program which contains no requirement that the blind vendor employ individuals with disabilities, severe or not, or blindness.

The U.S. Department of Education (DOE) has asserted that the Act's blind vendor priority DOES apply to contracts for operation of military dining services. These dining services that provide meals to troops at government expense are not vending facilities as defined by the R-S. The DOE does not deny this, but instead argues that dining facilities are simply cafeterias. DOE overlooks the fact that "cafeterias" is a subordinate term within the definition of "vending facilities." Under this DOE interpretation, military dining services do not qualify under the R-S Act because it is not a "vending facility." The DOE has interpreted that the 1974 amendment permits the insertion of the word cafeterias in place of the term vending facilities.

The U.S. Department of Defense (DOD), had at first elected to defer to the views of DOE, and has applied the R-S Act blind vendor priority to award contracts for operation of dining services. DOD is reexamining its policy on the applicability of the R-S Act to military dining services, especially as it applies to contracts for dining services that cover services for less than the full operation of a dining facility.

There are currently more than 3,000 people with disabilities working through the JWOD Program in management and direct labor military dining service jobs. According to an independent study in conducted in 2002, people with severe disabilities working on military dining service projects earned an average wage of \$8.31 an hour, which has risen steadily each year since. These dining service contracts enable people with severe disabilities who work in direct labor positions work along with the 14% of the management and supervisory staff who are people with disabilities to support the differing requirements of the armed services as they train and give experience to uniformed personnel in the unique combinations needed to meet their primary missions.

### How Congress Can Help

#### Encourage Agencies to Create Employment Opportunities by Purchasing Services and Products Through the JWOD Program

NISH urges Congress to insert report language in the Committee Report of the Workforce Investment Act, or in another appropriate vehicle, that encourages procurement activities to purchase quality services and products at a fair price through the Javits-Wagner-O'Day (JWOD) Program in order to expand employment opportunities for people who are blind or who have severe disabilities.

#### Direct the Administrative Agencies That Oversee the JWOD Program and the R-S Program to Meet with DOD to Negotiate a Settlement

NISH urges the Congress to include in the final 2006 defense authorization bill the language of Section 815 of HR 1815 with the following recommended bold changes:

(a) Extensions of Inapplicability of Certain Acts.-Section 853 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2021) is amended in subsections (a)(2) (A) and (b)(2)(A) by striking "2005" and inserting "2006".

(b) Statement of Policy.-The Secretary of Defense, the Secretary of Education and the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled shall jointly issue a statement of policy related to the implementation of the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) and the Javits-Wagner-O'Day Act (41 U.S.C. 48) within the Department of Defense, the Department of Education and the Committee for Purchase From People Who Are Blind or Severely Disabled. The joint statement of policy shall specifically address the application of those Acts to both operation and management of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces, and shall take into account and address, to the extent practicable, the positions acceptable to persons representing programs implemented under each Act.

(c) Report.-Not later than April 1, 2006, the Secretary of Defense, the Secretary of Education and the Committee for Purchase From People Who Are Blind or Severely Disabled shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Health, Education, Labor and Pensions of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Education and the Workforce of the House of Representatives and the Committee on Government Reform of the House of Representatives a report describing the joint statement of policy issued under subsection (b), with such findings and recommendations as the Secretaries consider appropriate.

#### Summary

JWOD/NISH and the Program's NPA Business Partners are proud of the employment opportunities that have been created and the dignity and honor that work and earning wages have brought to thousands of people with severe disabilities through the JWOD Program. Through the Program, NISH has demonstrated progressive growth in the number of jobs created for people with severe disabilities. Over the past five years, NISH increased employment among people with severe disabilities from approximately 32,000 to nearly 42,000.

Despite these efforts, there is a tremendous amount of work to be done, The 2000 Census found that there are 20 million people with self-reported severe disabilities in the United States, and studies continue to document the chronic 70 percent unemployment of people with severe disabilities. NISH wants to work with the Congress to find these solutions through a variety of strategies including the JWOD Program. We invite you to visit and

tour NPAs in the JWOD Program in the future. I am happy to answer any questions you may have.