

Outreach and Advocacy Tool Kit January 2012



The Committee for Purchase From People Who Are Blind or Severely Disabled began the use of an operational name –U.S.AbilityOne Commission– on October 1, 2011 (76 FR 80608-80609)



U.S. ABILITYONE COMMISSION

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Jefferson Plaza 2, Suite 10800
1421 Jefferson Davis Highway
Arlington, Virginia 22202-3259

January 12, 2012

MEMORANDUM FOR MEMBERS, U.S. ABILITYONE COMMISSION

SUBJECT: Employment Growth
Implementation of Immediate Payoff Group Recommendation

1. In July 2011, the Commission was briefed on the recommendations of the so-called Immediate Payoff (IPO) Group. The IPO Group was tasked to look for ways to improve the AbilityOne Program's mandatory source status with the result being increased employment opportunities for the people we serve. At the meeting in July 2011, the Commission acknowledged the recommendations of the group and encouraged their continued development based on the likely positive effects on employment when implemented.
2. As recommended by the IPO Group, this memorandum transmits a "tool kit" of materials that can aid you in both advocating for the Program and improving awareness of the mandatory source requirements of the AbilityOne Program in your Agency. The contents of the "tool kit" can be provided to procurement officials for inclusion procurement training, provides samples of letters that can be prepared in support of the Program, and provides an explanation of the legal and regulatory basis for the Program's mandatory status.
3. Attached please find a sample letter that you can use within your Agency to increase awareness of the AbilityOne Program and to remind agency personnel of the mandatory source requirements of the Program. I encourage each of you to carefully consider how these materials can be best utilized in your Agency to improve awareness of the AbilityOne Program, as well as, compliance with both its legal and regulatory requirements.

James M. Kesteloot
Vice Chairperson

Attachment



DEPARTMENT – LETTERHEAD

DATE

MEMORANDUM FOR Program Managers, Procurement Officials, and Purchase Card Holders

SUBJECT: Mandatory Source Requirements of the AbilityOne Program

1. The Committee for Purchase From People Who Are Blind or Severely Disabled, now operating as the US AbilityOne Commission (Commission) was established by the Javits-Wagner-O'Day (JWOD) Act (41 USC Chapter 85) and is responsible for implementing a comprehensive program designed to enact the Federal Government's policy to increase employment and training opportunities for persons who are blind or have other significant disabilities through the purchase of commodities and services from qualified nonprofit agencies employing such individuals. Today, this comprehensive program is called the AbilityOne Program, and the Commission's regulatory authorities under the Program are described at 41 Code of Federal Regulations (CFR) Chapter 51 and Federal Acquisition Regulation (FAR) Subpart 8.7.

In accordance with 41 CFR 51-2.8, the Commission maintains a Procurement List (PL), and the JWOD Act mandates that products or services included on the PL required by Government entities be procured from a nonprofit agency (NPA) employing persons who are blind or have other significant disabilities, at a price established by the Commission, if that product or service is available within the normal period required by that Government entity. Except for Federal Prison Industries' higher priority for products, the JWOD Act has priority over any other supplier of the Government's requirements for products and services as long as the products and services provided are on the Commission's PL.

2. A recently completed study by an AbilityOne Program workgroup revealed that program managers, contracting officers, contracting specialists, and purchase card holders may not be aware of, or fully understand, how the mandatory source requirement of the AbilityOne Program applies to the purchase of products. When products are on the PL and the Government has a need for them, those products must be purchased from the AbilityOne Program. AbilityOne products are easily identified by the AbilityOne trademark being found on the product, product labeling, or packaging.

In contrast, Government employees are prohibited by regulation from purchasing products that are determined to be "essentially the same" (ETS) (in terms of form, fit, and function) as products on the PL. "Essentially the same" products are not made by people who are blind or significantly disabled, and their purchase reduces opportunities for employment of people with disabilities under the AbilityOne Program.

3. Purchases of ETS products must be avoided in order to further the goal of creating long-term, stable employment for people who are blind or who have other significant disabilities. Program managers, when developing requirements, should check the PL to determine if there are AbilityOne products already available that meet those requirements. Procurement officials must also check the PL and ETS products list to ensure that solicitations, or other procurement instruments, do not

mistakenly require the procurement of ETS products. And, purchase card holders can avoid purchasing ETS products by ensuring that products purchased display the AbilityOne trademark and by being familiar with the PL and list of ETS products available at www.abilityone.gov.

4. I hope you will join with me to strengthen support for the AbilityOne Program by conscientiously applying its mandatory source requirements. Compliance with mandatory source requirements goes a long way towards ensuring the creation of long-term, stable employment for people with disabilities and compliance with long-standing Government policy.

[SIGNATURE BLOCK]



COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

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04. REFERENCES

- 04.01. Javits-Wagner-O'Day Act – United States Code –
41 USC 8501-8506, 01/04/2011
- 04.02. Committee for Purchase From People Who Are Blind or
Severely Disabled – Code of Federal Regulations –
41 CFR 51
- 04.03. U.S. AbilityOne Commission – Adoption of Operational
Name – 76 FR 60808-60809, 09/30/2011
- 04.04. Employment Growth / Immediate Payoff Group Report,
07/14/2011





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COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

ABILITYONE MISSION

Provide employment opportunities for people who are blind or have other significant disabilities through the manufacture and delivery of products and services to the Federal Government.

Training Focus:

Employment within the disability community is the AbilityOne's primary objective. The Federal procurement system is the vehicle identified by the Javits-Wagner-O'Day Act to fulfill this need.

Source:

(1) Legal authority – Javits-Wagner-O'Day Act – 41 USC § 8504 (a)

In General. – An entity of the Federal Government intending to procure a product or service on the procurement list referred to in section 8503 of this title shall procure that product or service from a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely disabled in accordance with regulations of the Committee and at the price the Committee establishes if the product or service is available within the period required by the entity.

(2) Regulation – 41 CFR chapter 51-1.1 (b)

It is the policy of the Committee to encourage all Federal entities and employees to provide the necessary support to ensure that the JWOD Act is implemented in an effective manner. This support includes purchase of products and services published on the Committee's Procurement List through appropriate channels from nonprofit agencies employing persons who are blind or have other severe disabilities.

Dec. 28, 2011





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COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

ABILITYONE LIAISON PROGRAM

The success of the AbilityOne Program can be enhanced by the establishment of an AbilityOne Liaison Program in your agency or Department. When established within your organization, AbilityOne Liaisons can help the AbilityOne team understand how it can best meet each agency's unique acquisition needs.

AbilityOne Liaisons can be a knowledgeable resource to communicate to their colleagues how supporting the AbilityOne Program helps generate jobs for thousands of Americans who are blind and have the most significant disabilities. Liaisons bring a unique combination of experience, creative energy, and vitality to spreading the AbilityOne message.

Dec. 28, 2011





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COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

LIAISON ACTIVITIES

The following are broad categories of activities that AbilityOne Liaisons may engage in to enhance the success of the AbilityOne Program in their agency or Department.

ADVOCACY: Liaisons can monitor the growth of AbilityOne support with your agency or department and help promote AbilityOne Program visibility by reporting on the level of AbilityOne products and services that have been purchased. They can also become aware of agency acquisition plans in order to identify new opportunities for the provision of AbilityOne Program products and/or services.

Liaisons can help the AbilityOne team identify other employees in your agency who may be interested in serving as a liaison with the AbilityOne Program due to a key job responsibility or personal interest in advocating for people with disabilities.

COMMUNICATIONS: Liaisons can help establish electronic links on appropriate pages of Agency websites; send info@abilityone.gov the page information and how to contact the webmaster. Even short messages about the AbilityOne Program on Log-in banners, Email



footers, and internal newsletters help tremendously toward improving awareness.

EDUCATE: The Liaisons can facilitate further distribution of this Toolkit to groups, such as purchase card program coordinators, purchase card holders, operations and program managers, and new acquisition staff.

Attending annual AbilityOne Program training conferences sponsored by NIB and NISH will strengthen their understanding of the Program. They can provide feedback to survey questionnaires about contract awards and services provided under the AbilityOne Program assist with improvement efforts within the Program.

COLLABORATE: Liaisons can share ideas with others and encourage them to purchase only AbilityOne products.

Dec. 28, 2011





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COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

MEMORANDA OF SUPPORT

Commission Members, as advocates for the AbilityOne Program, are encouraged to obtain statements of support for the AbilityOne Program from the Secretary of their Department or other senior official, as appropriate.

Such statements from senior leaders encourage other employees to support the AbilityOne Program, purchase AbilityOne products through authorized distributors, and promote awareness of that the Program is a mandatory source of supply for products that display the AbilityOne logo.

This section of the Toolkit contains several examples of Memoranda of Support issued by various Federal officials. They may provide useful information for similar letters that may be issued in response to this Toolkit.

Dec. 28, 2011





DEPARTMENT OF THE AIR FORCE
WASHINGTON DC 20330-1060

OFFICE OF THE ASSISTANT SECRETARY

20 OCT 2011

MEMORANDUM FOR ALMAJCOM/FOA/DRU

FROM: SAF/AQC
1060 Air Force Pentagon
Washington, DC 20330-1060

SUBJECT: Increasing AbilityOne Contracting Opportunities

October is National Disability Employment Awareness Month (NDEAM) and a perfect time for me to personally endorse the AbilityOne Program. AbilityOne provides employment opportunities for more than 47,000 people who are blind or severely disabled through federal Government contracts for supplies and services. This workforce also includes more than 3,300 of our wounded veterans.

In a recent memo (attached), the Director, Defense Procurement and Acquisition Policy (DPAP) highlighted the importance of AbilityOne and lauded the FY11 award winners. In the spirit of this memo, I wanted to strongly encourage contracting officers to engage with their customers in proactively seeking contracting opportunities suitable for the AbilityOne Program in order to foster greater opportunities and career paths for people with disabilities. I also wanted to congratulate all of our FY11 Air Force AbilityOne award winners identified in the attached DPAP memo.

As we continue moving forward with strategic sourcing initiatives, I believe the prospects for awarding new AbilityOne contracts to meet our supply and operational services requirements are stronger than ever. Two such examples are office supplies and contract closeout services. This month saw the commencement of the Mandatory Use Policy for Purchase of Office Supplies. This policy authorizes office supply purchases from AbilityOne Base Supply Centers as the only Air Force waiver from utilizing the Federal Strategic Sourcing Initiative (FSSI) Office Supply Blanket Purchase Agreements (BPAs). This month we also anticipate the award of two task orders under the AbilityOne Program to support in the closeout of approximately 11,360 Air Force contract actions.

Through our partnership with AbilityOne, we can continue to employ disabled workers who provide vital supplies and services that help us meet the mission of the Air Force, a win-win for all involved. You got it...we bought it...from AbilityOne!


WENDY M. MASIELLO, Maj Gen, USAF
Deputy Assistant Secretary (Contracting)
Assistant Secretary (Acquisition)

Attachment:
30 Sep 11 OUSD AT&L DPAP



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

SEP 30 2011

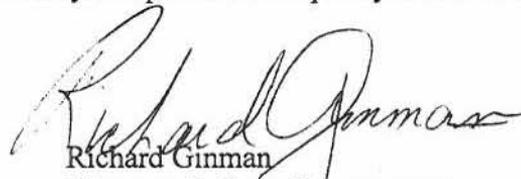
ACQUISITION,
TECHNOLOGY
AND LOGISTICS

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION AND PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: National Disability Employment Awareness Month and the AbilityOne Program

Each October the President of the United States asks all Americans to recognize the achievements of workers with disabilities and to help create greater employment opportunities and career paths for people with disabilities. This year's National Disability Employment Awareness Month (NDEAM) theme, "Profit by Investing in Workers with Disabilities," honors the contributions of a highly skilled talent pool that can help employers compete in today's global economy. NDEAM is an excellent opportunity to recognize and celebrate the AbilityOne Program, which is the largest single source of employment in the United States for people who are blind or have other significant disabilities. Today, more than 3,300 wounded veterans are part of the AbilityOne Program's 47,000 workforce that is employed at more than 600 community-based non-profit agencies across the country.

The Department of Defense proudly continues to be the largest customer of the AbilityOne Program, procuring more than \$1.6 billion of goods and services for the defense mission in Fiscal Year 2010. This past year, my office and the U.S. AbilityOne Commission, the Federal agency which administers the AbilityOne Program, recognized the procurement professionals identified in the attached who demonstrated a commitment in action to increasing business with AbilityOne. I congratulate these award recipients for a job well done, and express appreciation to our workforce for their dedication to, and steadfast support of, the AbilityOne Program. My staff point of contact for AbilityOne procurement policy is Ms. Susan Pollack, 703-697-8336, susan.pollack@osd.mil.


Richard Ginman
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated

Department of Defense Acquisition Workforce Members Recognized in Fiscal Year 2011

Awards Presented by the U.S. AbilityOne Commission:

Thomas Bouchard, Army Contracting Command, Aberdeen Proving Ground (Soldier, Chemical, Research & Test) – Recipient of the 2011 E.R. "Dick" Alley Career Achievement Award. This award is the highest honor bestowed by the U.S. AbilityOne Commission and recognizes Federal employees who have provided extraordinary achievement and sustained effort to create AbilityOne employment and training opportunities on Federal contracts for people who are blind or have other significant disabilities.

Rear Admiral Mark Heinrich, SC, USN; Commander, Naval Supply Systems Command and Chief of Supply Corps – Recipient of the 2011 Osborne A. "Oz" Day AbilityOne Awareness Award. This award recognizes a Federal employee for extraordinary efforts in advocating and promoting the AbilityOne Program.

Pamela Munoz; Director, Joint Base Lewis-McChord, USA MICC, Contracting Directorate – Recipient of the 2011 Outstanding Contributions Award.

Vicki Taft; Chief, Base Support Flight, 72 CONS/PKA; Tinker Air Force Base – Recipient of the 2011 Outstanding Contributions Award.

Susan Pollack; Senior Procurement Analyst, OUSD (AT&L)/Defense Procurement and Acquisition Policy – Recipient of the 2011 Most Valuable Liaison Award.

AbilityOne Commitment in Action Awards Presented by the Department of Defense and the U.S. AbilityOne Commission at the DOD Procurement Conference and Training Symposium, May 11, 2011:

Scott Svabek, Colonel, U.S. Army Medical Command

Benjamin Walker, AETC, 82nd Contracting Squadron

David Brown, AETC, 82nd Contracting Squadron

Mary Whitley, AETC, 82nd Contracting Squadron

Porter Smith, AETC, 82nd Contracting Squadron

Diane Hulett, Defense Finance and Accounting Services

Eric Miller, Defense Finance and Accounting Services

Gerald Lane, Defense Finance and Accounting Services

Brett Joseph, Defense Logistics Agency

Lisa Flite, Defense Logistics Agency

Theresa Rucci, Defense Logistics Agency

Edward Stolle, Navy Fleet and Industrial Supply Center Norfolk

David Borne, Navy Fleet and Industrial Supply Center Norfolk

Patricia Monroe, Navy Fleet and Industrial Supply Center Norfolk

Robert Wade, Washington Headquarters Service

AbilityOne Commitment in Action Awards Presented by the Department of Defense and the U.S. AbilityOne Commission at the DOD Senior Contracting Leader Off-Site, December 8, 2010:

Roger Westermeyer, Colonel, USAF, Director of Contracting, Ogden Air Logistics Center

Sandra Kim, Chief, Contracting Division Omega, USA Regional Contracting Office-Hawaii

Derrick McGee, Contracting Division Omega, USA Regional Contracting Office-Hawaii

Mary Adediran, Defense Commissary Agency

Charita Branscomb, Defense Commissary Agency

Linda Brown, Defense Commissary Agency

Michele Burk, Defense Commissary Agency

Ronald Conrad, Defense Commissary Agency

Jill Craft, Defense Commissary Agency

Patrick DeWynngaert, Defense Commissary Agency

Kathy Hawthorne, Defense Commissary Agency

Audrey Holmes-Fisher, Defense Commissary Agency

Carla Milot, Defense Commissary Agency

Scott Moorehead, Defense Commissary Agency

Sebrina Owens, Defense Commissary Agency

Betty Perkinson, Defense Commissary Agency

Michael Pigram, Defense Commissary Agency

Pamela Tyler, Defense Commissary Agency

Margaret Prince, Defense Commissary Agency

Ginna Thomas, Defense Commissary Agency

Denise Williams, Defense Commissary Agency

Darlene Kunde, Deputy Director, Regional Contracting Department, Navy Fleet and Industrial Supply Center – Jacksonville

Bonnie Adams, Navy Fleet and Industrial Supply Center – Jacksonville

Karen Donald, Navy Fleet and Industrial Supply Center – Jacksonville

Venita Harmon, Navy Fleet and Industrial Supply Center – Jacksonville

Vickie Morgan, Navy Fleet and Industrial Supply Center – Jacksonville

Melissa Rivera, Navy Fleet and Industrial Supply Center – Jacksonville
Donna Sneed, Navy Fleet and Industrial Supply Center – Jacksonville
Mattie Washington, Navy Fleet and Industrial Supply Center – Jacksonville
Rebecca Washington, Navy Fleet and Industrial Supply Center – Jacksonville
Annie Williams, Navy Fleet and Industrial Supply Center – Jacksonville
James Currier, Navy Fleet and Industrial Supply Center - Norfolk
Greg Finke, Navy Fleet and Industrial Supply Center - Norfolk
Carolyn Johnson, Navy Fleet and Industrial Supply Center - Norfolk
Nick Kulakowski, Navy Fleet and Industrial Supply Center - Norfolk
Rhonda Nielsen, Navy Fleet and Industrial Supply Center - Norfolk
Jennifer Patton, Navy Fleet and Industrial Supply Center - Norfolk
Cathy Purvis, Navy Fleet and Industrial Supply Center - Norfolk
Jacki Armes, Navy Fleet and Industrial Supply Center – Philadelphia
Joel Asher, Navy Fleet and Industrial Supply Center – Philadelphia
Gerald Bowne, Navy Fleet and Industrial Supply Center – Philadelphia
Joseph Caltagirone, Navy Fleet and Industrial Supply Center – Philadelphia
Brian Excell, Navy Fleet and Industrial Supply Center – Philadelphia
Erin Kilrain, Navy Fleet and Industrial Supply Center – Philadelphia
Kathleen Lockhart, Navy Fleet and Industrial Supply Center – Philadelphia
James O'Sullivan, Navy Fleet and Industrial Supply Center – Philadelphia
Michael Placido, Navy Fleet and Industrial Supply Center – Philadelphia
Jaime Slattery, Navy Fleet and Industrial Supply Center – Philadelphia
Virginia Dashiell, Acting Director, Regional Contracting Department, Navy Fleet and Industrial Supply Center - Puget Sound
Spencer Butherus, Navy Fleet and Industrial Supply Center - Puget Sound
Jane “Lucy” Leu, Navy Fleet and Industrial Supply Center - Puget Sound
Danny Lewis, Navy Fleet and Industrial Supply Center - Puget Sound
Marcia Cruz, Deputy Director, Regional Contracts Department, Navy Fleet and Industrial Supply Center - San Diego
Anthony Bagnani, Navy Fleet and Industrial Supply Center - San Diego
Gabriel Ho, Navy Fleet and Industrial Supply Center - San Diego
George Tegart, Navy Fleet and Industrial Supply Center - San Diego

Awards presented by National Industries for the Blind (NIB) at the 2011 NIB/National Association for the Employment of People Who Are Blind (NAEPB) Opportunity Forum Conference, June 23, 2011:

Mark Thompson, Chief, Supply Policy, U.S. Air Force Air Mobility Command, Scott AFB; Recipient of the Base Supply Center Partner in Excellence Awards

Shawna McGowan, LtCol, U.S. Air Force, Chief, Airman clothing and individual equipment, Air Staff, Arlington, Virginia; Recipient of the Base Supply Center Partner in Excellence Award

Al Diaz, NEXCOM; Recipient of the Business Development Partner in Excellence Award

Bob King, Director, Defense Logistics Agency, Distribution; Recipient of the Business Development Partner in Excellence Award

Terri Scheetz, Chief, Equipment/Tent Division, DLA Troop Support; Recipient of the Textiles and Niche Partner in Excellence Award

AbilityOne Procurement Champions Recognized by NISH:

Vicky Williams, Air National Guard, October 2010 Champion

Lawrence Duran, United States Air Force Academy, November 2010 Champion

Ken Tritsch, United States Air Force, December 2010 Champion

Darlene Kunde, Navy Fleet Industrial Supply Center, January 2011 Champion

Suzanne Edgar, Joint Base – McGuire, Dix, Lakehurst, February 2011 Champion

Colonel Searle, Joint Base – McGuire, Dix, Lakehurst, February 2011 Champion

Edwonia Gates, United States Army, February 2011 Champion

Cynthia Nevin, Defense Logistics Agency, Land & Maritime, March 2011 Champion

Deborah Ault, United States Army, March 2011 Champion

Rosalind McFadden, United States Army, April 2011 Champion

Michelle Millay, United States Army, April 2011 Champion

Buzz Soltis, United States Army, April 2011 Champion

Laura Johnson, Naval Medical Center Portsmouth, April 2011 Champion

LCDR Kreg Everleth, Naval Medical Center Portsmouth, April 2011 Champion

Eric Miller, Defense Finance and Accounting Service, May 2011 Champion

Gerald Lane, Defense Finance and Accounting Service, May 2011 Champion

Eric Spychaliski, United States Air Force, May 2011 Champion

Stephen Abate, United States Army, June 2011 Champion

Peter McDonald, United States Army, June 2011 Champion

Time Byrnes, Army Mission & Installation Contracting Command, September 2011 Champion

Chief Acquisition Officers Council (CAOC) Team Award Presented to the Department of the Army, Mission and Installation Contracting Command (MICC) Team. The 2011 CAOC Acquisition Excellence Awards were presented at the GSA Expo on May 11, 2011.

This award recognizes teams or individuals that have demonstrated excellence in acquisition management. The MICC team led an initiative to develop a DOD-wide solution for contract closeout support, utilizing the AbilityOne Program capabilities and capacity. The MICC team developed a successful proof-of-concept, and awarded an Indefinite Delivery/Indefinite Quantity contract for contract closeout management support services available for use by all DOD contracting offices. The MICC recipients of the CAOC team award are:

Sarah Corley

Bruce Alsop

John Campos

Michael Gallagher

Richard Goodin

Mary Johnson

Dale Williams



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

SEP 14 2010

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION & LOGISTICS MANAGEMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Mandatory Use of AbilityOne Program Contract Closeout Services

My memorandum of December 4, 2009, announced an important strategic sourcing initiative between the Department of Defense (DoD) and the AbilityOne Program for Contract Management Support Services (CMS) and the plan to award a long term contract based on the success of the ongoing CMS pilot contract with the Department of the Army. I am pleased to inform the procurement community that the AbilityOne Program Contract Closeout Support Services Indefinite Delivery/Indefinite Quantity (IDIQ) contract W9124D-10-D-0021 was awarded by the Army on June 29, 2010, and must be used by all DoD Components when outsourcing contract closeout services. Existing contracts with priced options for contract closeout services may be completed in accordance with the terms and conditions of the existing contracts.

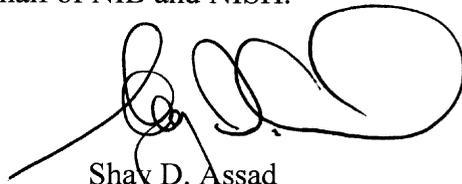
The CMS IDIQ contract provides non-inherently governmental contract closeout support and creates career-oriented, upwardly mobile employment opportunities for people who are blind or who have other significant disabilities, to include Wounded Warriors and service-disabled veterans. This contract fulfills a critical need for the Department by reducing the contract closeout administrative workload and allowing the contracting workforce to focus resources on critical mission support to the Warfighter.

The contract closeout services were added to the AbilityOne Program Procurement List, as posted in the Federal Register <http://edocket.access.gpo.gov/2010/pdf/2010-12898.pdf>, effective June 28, 2010. In accordance with the Javits-Wagner O'Day Act (41 USC 47) and the Federal Acquisition Regulation Subpart 8.7, the placement of contract closeout services on the AbilityOne Program Procurement List requires DoD components to contact the AbilityOne Program when a determination is made to outsource contract closeout work. The AbilityOne Program will assess the work required, and, if the capacity to provide the contract closeout

services is not available to meet the customer's needs then the Committee for Purchase From People Who Are Blind or Severely Disabled will issue a Purchase Exception to the requesting organization.

Each DoD Component will need to work with the AbilityOne Program to ensure key implementation issues are addressed to include determination of physical location of the services, accessibility to contract writing systems, establishment of IT security/transfer protocols and the formulation of closeout processes for the respective contracting offices.

Please address questions regarding this memorandum and AbilityOne Program procurement policy to Ms. Susan Pollack, OUSD(AT&L)/DPAP, at 703-697-8336, or susan.pollack@osd.mil. For information on AbilityOne Contract Closeout Services, DoD Components may contact National Industries for the Blind (NIB) Services Department at 866-573-3748 or services@nib.org, on behalf of NIB and NISH.

A handwritten signature in black ink, appearing to read 'Shay D. Assad', with a large, stylized flourish at the end.

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy



COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

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TRAINING MATERIAL

The importance of sharing knowledge and a common perspective are vital to the achievement of a single goal by a group. The ongoing training – new and refresher – efforts of every Federal employee are well documented.

There are two presentations included in this Toolkit that focus on the AbilityOne Program and its priority within the procurement system. They are offered as a resource for independent review.

Dec 28, 2011





AbilityOne Program Overview

How to Leverage the Program to Fulfill Your Product and Office Supply Needs



December 2011



AbilityOne Mission



Provide employment opportunities for people who are blind or have other significant disabilities through the manufacture and delivery of products and services to the Federal Government.

AbilityOne®

PROGRAM





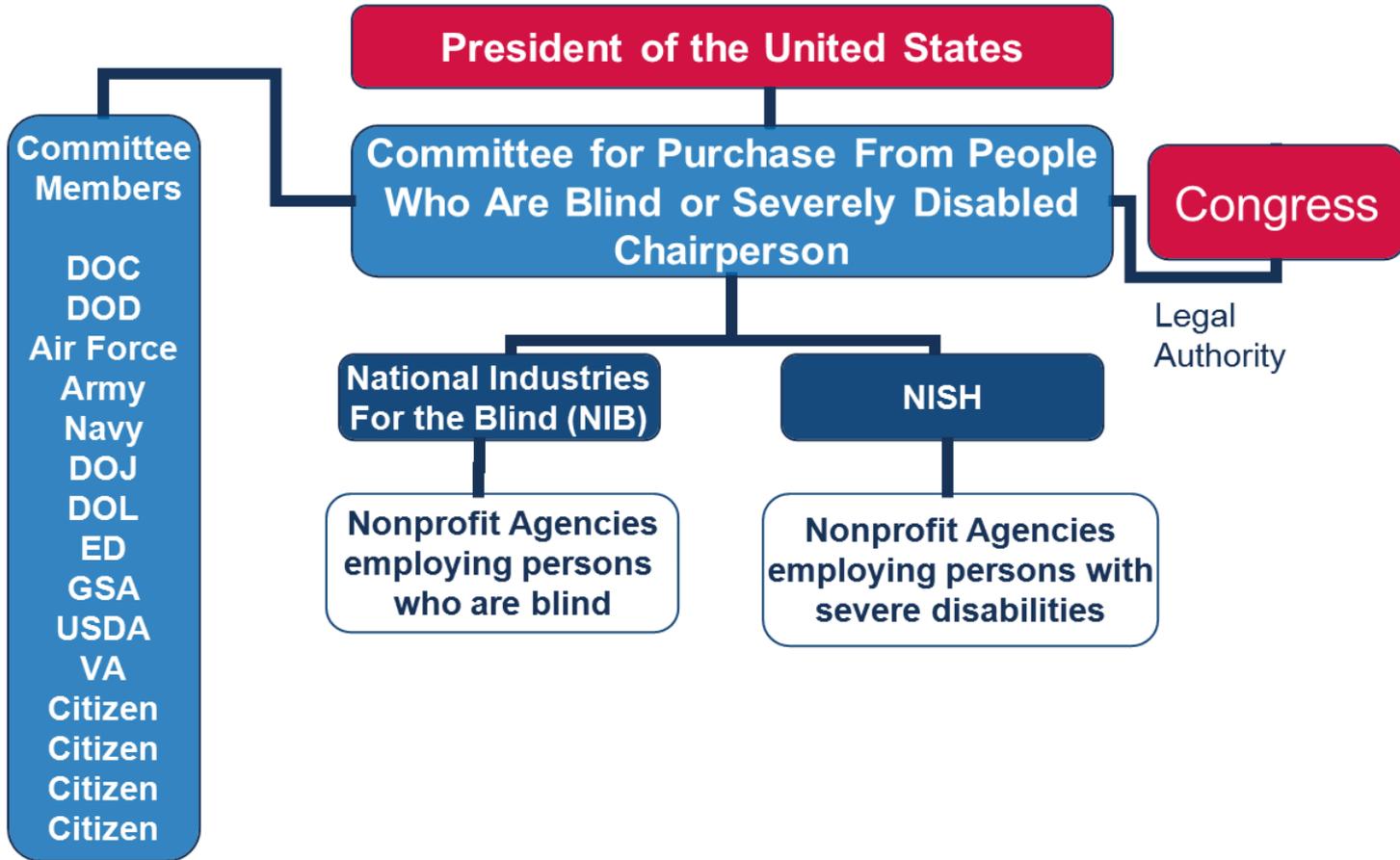
Federal Customer

- Your support is critical to the success of the AbilityOne Program
 - Not limited to contracting personnel
 - Includes purchase card holders, agency program officials, and functional managers
- Encourage buying where you see the AbilityOne logo
- Give Feedback - Suggest products for potential Procurement List additions





Organizational Chart





Committee Responsibilities

- Establish strategic direction for the AbilityOne Program
- Manage Additions to and Deletions from the Procurement List
- Set and Revise Fair Market Prices
- Determine rules and regulations necessary to administer the Program through the Javits-Wagner-O'Day Act
- Assist Federal customers to increase their support of the AbilityOne Program





Central Nonprofit Agencies

- Central Nonprofit Agencies (CNAs) are one or more non-governmental organizations designated by the Committee to assist in the administration of the Program.
- They are currently:
 - ✓ National Industries for the Blind (NIB)
 - ✓ NISH (creating opportunities for people with other significant disabilities)





CNA Responsibilities

- Represent Nonprofit Agencies (NPAs) who participate in the Program
- Evaluate NPA qualifications and capabilities
- Ensure NPA compliance with Javits-Wagner-O'Day Act and other Federal statutes
- Oversee NPA contract compliance
- Solve problems; initial point of contact for complaints or delivery issues
- Equitably distribute orders to NPAs





Nonprofit Agency Responsibilities

- Manufacture and deliver products or perform services as assigned by NIB or NISH
- Maintain qualifications for participation:
 - 75% of direct labor hour performed by people who are blind or have another significant disability
 - Net income cannot benefit individual shareholder or other individual
- Meet other requirements of Federal contractors





Why is AbilityOne Important?

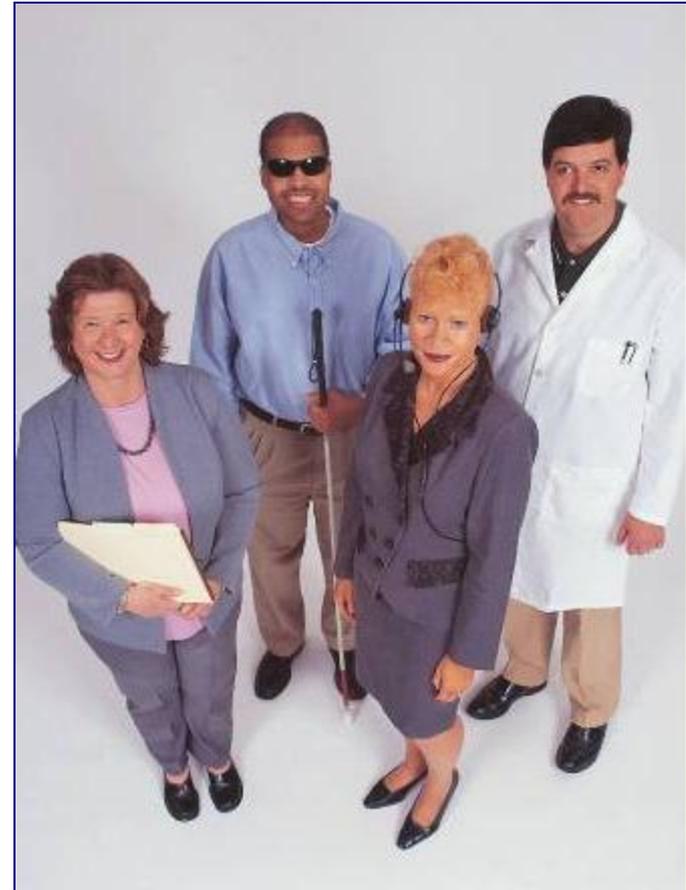
- Over 18 million working-age adults are blind or have a significant disability.
- 70% of this population is NOT employed.
- AbilityOne is the single largest employer of Americans who are blind or have other significant disabilities.
- It serves people who cannot obtain or maintain employment on their own.





Benefits to NPA Employees

- Wide range of job options
- Equitable wages & benefits
- Long-term work experience
- Marketable job skills
- A measure of independence





Benefits to the Government

- Quality products & services with on-time delivery
- Fair market prices give best value procurement
- National network of suppliers & solutions providers
- Satisfaction in helping people to help themselves





How does AbilityOne work with Federal Customers?

- Partner with Federal customers as a preferred source for products
- Work harder to increase customer satisfaction and earn loyalty
- Responds to feedback on consistency, reliability, quality, timeliness, and price





AbilityOne Products feature the *SKILCRAFT™ brand*

How to Get the Quality, Value
and Convenience You Need





What Products Can I Buy?

- Chemical Supplies
- Cleaning Products
- Clocks
- Clothing
- Computer Accessories
- Disposable Paper Products
- Furniture
- Kitchen & Break Room Supplies
- Mattress & Bedding
- Medical Supplies
- Military/Combat Clothing
- Office Supplies
- Paint & Accessories
- Personal Care & Safety
- Picture Frames
- Safety & Maintenance Items
- Shipping & Packaging Supplies
- Writing Instruments





Office and Cleaning Products





“Green” Products

- Biodegradable paper cups
- Process Chlorine Free (PCF) office paper
- Pens made from recycled materials
- Disposable cutlery
- Environmental cleaning agents





Custom Engraving Products

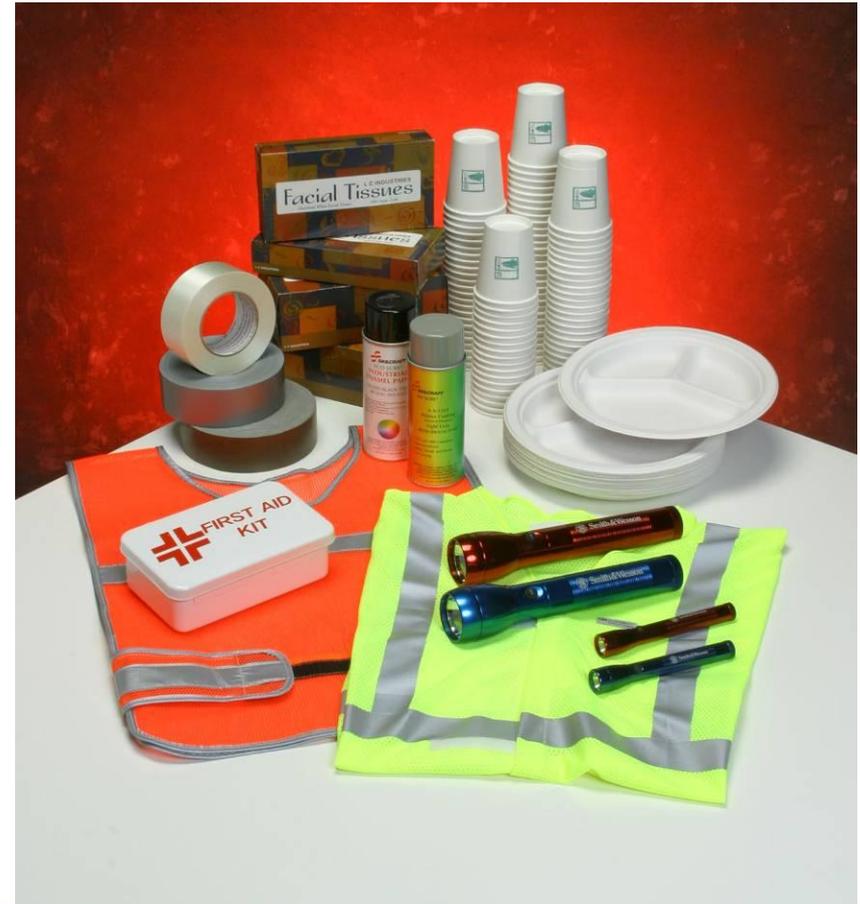
- Awards & Recognition
 - Plaques
 - Pen sets
- Clocks
- Military picture frames
- Stamps





Safety & Personal Care

- First aid kits
- Fire hoses
- Flashlights
- Gloves
- Non-skid deck covering
- Traffic safety clothing items





Micro-Purchase Limits

Is AbilityOne still a required source if I only buy small amounts with my purchase card?

- **Yes**, the AbilityOne Program is applicable at any dollar amount
- No exemptions for micro-purchases





Buy AbilityOne Products

- GSA Global Supply
www.GSAGlobalsupply.gsa.gov
- GSA Advantage![®] www.gsaadvantage.gov
- DoD EMALL www.emall.dla.mil
- Multiple Award Schedule Holders - Authorized AbilityOne Distributors
- Base Supply Centers
- Official on-line store www.abilityone.com





AbilityOne Procurement List

- Source for the Official list of AbilityOne items
- Search by name and National Stock Number (NSN) or commercial name for each product
- Maintained by the Federal agency the Committee for Purchase From People Who Are Blind or Severely Disabled
- Access the list: www.abilityone.gov
then → Quick Links → Products





Unique Products in the AbilityOne Program





U.S. Military Industrial Base

AbilityOne products are an important part of the U.S. military industrial base:

- Chemical and Biological Protective Apparel and Equipment Systems
- Dress and Battle Uniforms (BDU, ACU, ABU)
- Subsistence Items such as MRE Components and special Navy packaging for shipboard use
- Energy Dissipating Pads to cushion the fall of air-dropped humanitarian aid items





Industrial Base Balance

- AbilityOne understands and supports DOD agencies' need to balance their purchases across multiple sources to ensure a healthy industrial base
- Multiple AbilityOne manufacturing agencies can serve as back-ups and surge capacity
- AbilityOne will grant purchase exceptions as needed to enable the government to purchase critically needed items outside our capacity





AbilityOne and DoD

- Current Large Volume Items
 - DeCA
 - Military Resale
 - Commissary Shelf Stocking
 - DSCR/DSCC
 - Belts and Straps
 - Battery and Lighting Acquisition, Storage, Repackaging and Distribution
 - DAU Detail Program
 - Acquisition AbilityOne curriculum online





Do I Have to Buy from AbilityOne?

- FAR Part 8
- Required source if on Procurement List
 - Services – first priority
 - Products – first priority after FPI Schedule
 - Applies to micro-purchases
- Purchase exceptions may be requested, if
 - NPAs cannot meet contract requirements or timeframes.





AbilityOne Unique Military Products

- Provide Soldier, Airman, Sailors, and Marine Corp Battle and Dress Uniforms
- Warfighter items: helmet components, “Navy-pack” dry food mixes, ID kits, Vehicle side racks,
- Mattresses for submarines and ships
- Medical items





Government-Unique Items

- Batteries
- Emergency Light Markers
- Head Lanterns
- Flashlights
- Terminal Adapters
- Tire Inflator Gauge
- Mechanic's Creeper



Battle-board ID Kits
Seat Cushions
Aircraft Cargo Tie Down Kits, Nets and Straps
Oil Sample Bottle
Fuel Tank Foam
Tire Inflator Gauge
Rakes

AbilityOne®

PROGRAM





Customer Satisfaction

Customer satisfaction is the key to keeping people employed, so...

Performance

+

Value

=

Customer Satisfaction

=

Jobs





AbilityOne Program Team

Committee for Purchase From People Who Are Blind or Severely Disabled*

1421 Jefferson Davis Highway
Jefferson Plaza 2, Suite 10800

Arlington, VA 22202-3259

Phone: (703) 603-7740

Fax: (703) 603-0655

E-Mail: info@abilityone.gov

www.abilityone.gov

*The Committee began operating as the U.S. AbilityOne Commission on
Oct. 1, 2010 [76 FR 60808-60809, 9/30/2011]





Commission Contact Information

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NIB Contact Information

National Industries for the Blind (NIB)

Harlan Erker

1310 Braddock Place

Alexandria, Virginia 22314-1691

Phone: (703) 310-0633

Fax: (703) 998-8268

www.nib.org



AbilityOne®

PROGRAM





Nish Contact Information

NISH

David Brown

8401 Old Courthouse Road

Vienna, Virginia 22182

Phone: (571) 226-4621

Fax: (703) 849-8916

www.nish.org

nish

Creating Employment
Opportunities
For People With
Severe Disabilities





Government Purchase Card Training



December 2011



Purchase Card Training Program

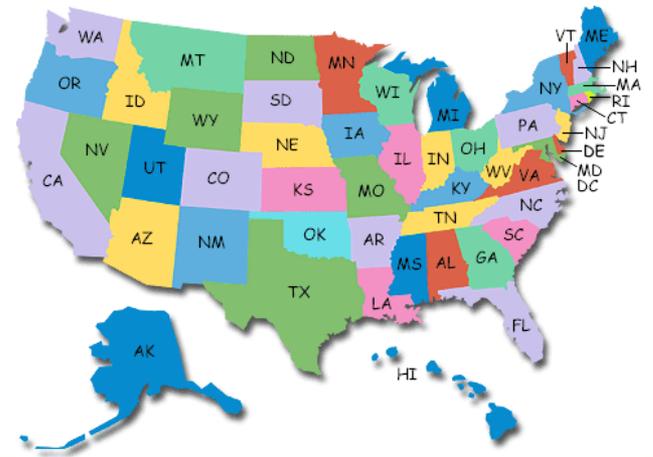
- A **quality** source of supply...
A required source for all federal agencies...
- A unique employment program for Americans who are blind or who have other severe disabilities.





Introduction

- **Purpose:** Create employment for People Who Are Blind or Have Other Severe Disabilities
 - Over 18 Million working-age adults are blind or severely disabled
 - Over 70% of this population is not employed
 - AbilityOne is the single largest employer of this population in America
- **Method:** Federal employees buy supplies and services furnished by these individuals

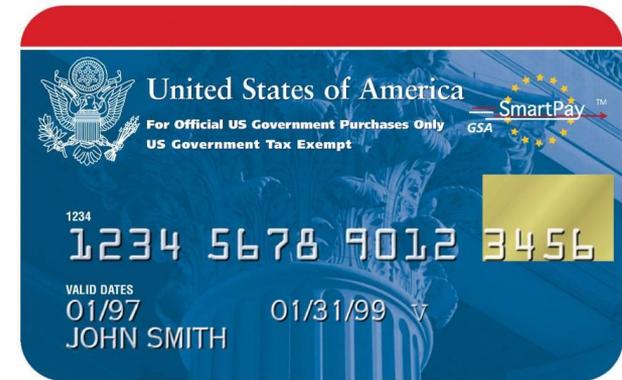




Micro-Purchase Limits

Is AbilityOne still a required source if I only buy small amounts with my purchase card?

- **Yes**, the AbilityOne Program is applicable at any dollar amount
- No exemptions for micro-purchases
- There are **No Waivers** for items on the Procurement List
- Waivers are not given due to cost of a commodity





AbilityOne Procurement List

- Official list of all AbilityOne items
- Maintained by the Committee for Purchase
- Identifies name and National Stock Number (NSN) or commercial name for each product
- Description and List of products and services on the Procurement List: www.abilityone.gov





Products & Services

- **Office and Cleaning Supplies**
 - AbilityOne paper products comply with Executive Order 13423 on “Greening the Government”
- **Medical/Surgical Items**
- **Textiles**
- **Services**
 - Temporary Administrative Services
 - Janitorial/Custodial; Grounds Maintenance; Switchboard; and Much More!





“Green” Products

- Biodegradable paper cups
- Process Chlorine Free (PCF) office paper
- Pens made from recycled materials
- Disposable cutlery
- Environmental cleaning agents





How to Buy AbilityOne Products

- GSA Global Supply
- *GSA Advantage!*[®] / DOD EMALL
- Base Supply Centers/SERVIMARTs
- Commercial Distributors
(www.abilityone.gov/distributors)
- On-Line Store
 - www.AbilityOne.com





Need More Information?

Points of Contact:

- **AbilityOne Commission Staff**
Eric Beale, 703-603-2119
ebeale@abilityone.gov
or info@abilityone.gov



- **National Industries for the Blind (NIB)**
Harlan Erker, 703-310-0633, herker@nib.org



- **NISH (serving a wide range of disabilities)**
Marti Eisentraut, 571-226-4640, meisentraut@nish.org





Central Nonprofit Agencies

National Industries for the Blind (NIB)

1310 Braddock Place
Alexandria, Virginia 22314-1691
Phone: (703) 310-0500
www.nib.org



NISH

8401 Old Courthouse Road
Vienna, Virginia 22182
Phone: (571) 226-4621
www.nish.org



Creating Employment
Opportunities
For People With
Severe Disabilities





Committee

Committee for Purchase From People Who Are Blind or Severely Disabled*

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Phone: (703) 603-7740

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E-Mail: info@abilityone.gov

www.abilityone.gov

*The Committee began using the operational name
U.S. AbilityOne Commission in October 2011.





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COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

MANDATORY SOURCE REQUIREMENT

The AbilityOne Program's *mandatory source requirement*, as specified by the Javits-Wagner-O'Day Act at 41 USC Chapter 85, Section 8504: Procurement Requirements for the Federal Government, is critical to providing long-term stable employment for Americans who are blind or who have other significant disabilities. Regulation at 41 CFR 51-5.3, Scope of Requirement, states "when a commodity is included on the Procurement List, the *mandatory source requirement* covers the National Stock Number or item designation listed and commodities that are essentially the same as the listed item." When a product is designated as a potential violation to the prohibition to purchase ETS items compared to approved AbilityOne Procurement List products, Federal government employees are prohibited from purchasing the ETS item in lieu of what is on the Procurement List.

At its July 2011 meeting, the Employment Growth Subcommittee reported that the purchase of ETS products by Federal Government employees costs the Program hundreds of employment opportunities every year. Commonly referred to as "leakage," the purchase of ETS items is a significant roadblock to the AbilityOne Program's employment growth mission.

Dec. 28, 2011



Regulatory Framework:

The Javits-Wagner-O'Day Act (41 U.S.C. 8501, et. seq.), establishes the Committee for Purchase From People Who Are Blind or Severely Disabled as the independent Federal agency directed to manage a Procurement List for products and services for purchase by Federal customers. The statute and mission of the agency is to create employment for people who are blind or who have other significant disabilities. Compliance with the statute is critical to achieving this employment objective.

Only purchases made from the Federal Prison Industries have first priority before AbilityOne products as a mandatory supply source for Federal users. A commitment to educate, enforce procurement laws, and implement system enhancements to block the sale of these products is imperative. The continued support from senior Federal officials and the general workforce is critical to accomplish this goal. Successful execution and long term viability of AbilityOne products will create employment for this special segment of the disability labor pool and fulfill the intent of this Congressional mandate.

Background:

The mandatory source requirement of the Javits-Wagner-O'Day Act may be overlooked by some Government organizations. As recently as July 2011, an Employment Growth Subcommittee report [1] identified the need to reinforce the employment objective of the Program through the sale of AbilityOne products to the Federal customer. The loss of sales through purchases of items other than AbilityOne, referenced here as "Essentially the Same" (ETS)

[1] Report of the Immediate Pay-Off Task Force: Working to Improve the Program's Mandatory Source Status to Maximize Employment Opportunities, 07/14/2011, James Kesteloot, Subcommittee Chair.

products reduces the number of jobs that can be offered through the AbilityOne Program.

Both NIB and NISH increased their monitoring of solicitations to ensure Federal agencies were soliciting and subsequently contracting for AbilityOne products. Below depicts the dollar values of sales that might have gone outside the AbilityOne Program without the efforts of NIB and NISH. Please note, however, that these purchases were successfully transitioned to an AbilityOne product purchase.

- FY11- \$6,500,000 worth of products were captured (\$6,200,000-NIB/ \$346,000- NISH)
- FY12 (YTD)- \$578,000 worth of products were captured (\$386,000-NIB/ \$192,000-NISH)

The Current Plan:

The Task Force established an action plan to mitigate potential job losses through a focused effort to eliminate ETS in all channels. Education and enforcement are the key tenets to this overall effort. The action plan is a four step approach which includes:

1. Foundation:

Gain the concurrence of senior leaders from GSA and other federal agencies to support this initiative. GSA committed to support by the formation of an Integrated Project Team (IPT) to develop recommendations.

2. Metrics:

Establish consolidated metrics among all channels to track ETS violations and monitoring.

3. Compliance:

Establish a formal program with policies and procedures for the monitoring, identifying, and communicating items that are ETS within the distribution channels.

4. Education:

Offer training to all distribution channel partners and federal contracting officers on the mandatory source requirements and ETS. Additionally, refresh current course materials offered by various agencies on the AbilityOne Program.

Implementation and Solutions:

- 1. Organizational Support: *Commitment*** from all federal agencies to support the AbilityOne mission and initiative to remove ETS through formal statements. Draft communication in process at the AbilityOne Program.
- 2. Ensure compliance throughout all Federal Agencies: *Enforce*** the Javits-Wagner-O'Day Act requirements as the required source for products. This statute must be treated with the same regard and respect as other procurement laws. Senior acquisition leaders must ensure the AbilityOne product is purchased foremost above any other commercial equivalent within their agency.
- 3. Ensure compliance within the GSA Multiple Award Schedule (MAS) Contracts: *Enforce*** the Javits-Wagner-O'Day Act requirements as the required source for products with the MAS holders. Through collaboration with the AbilityOne Program, GSA uses a third party data mining company to identify all ETS products marketed and bought. GSA then removes these products from MAS holder's contract.

4. **Ensure compliance within DoD E-mall:** *Enforce* the mandatory source requirements for products within DOD E-mall. DoD E-mall is analyzing possible system enhancements to block the upload of ETS products onto E-mall.
5. **Standardized Contract Language:** *Implement* standard AbilityOne language across all schedules and solicitations enforcing the mandatory source requirements for AbilityOne products.
6. **Compliance:** *Violations* on multiple occasions, despite the issuance of compliance policies and warnings, may result in suspension of an MAS holder's authorization for a period of time. After reinstatement, if compliance does not improve, or additional non-conformances are noted, the U.S. AbilityOne Commission will work—Government -to-Government—with GSA to determine appropriate penalties, including termination.
7. **Education:** *Launch* a training program as a two-step approach. First target GSA/DoD E-mall contracting officers and MAS holders to minimize ETS within the schedules program. Second, target key federal agencies to enforce the mandatory source requirements within their agency solicitations.

Committee Member's Support:

There are three simple steps that can dramatically decrease job loss due to the sale of ETS products. They include:

1. **Mandate semi-annual training** conducted by the AbilityOne Commission staff members in conjunction with NIB and NISH to all contracting officers and specialists on the mandatory source requirements of the AbilityOne Program.

- 2. Mandate annual training to senior procurement officials on the mandatory source requirements of the AbilityOne Program within your Federal agency.**

- 3. Direct and monitor the enforcement of the mandatory source requirements within your Federal agency in lieu of commercial equivalent products. Encourage purchases only from authorized AbilityOne sources, including Base Supply Centers.**



Mandatory Source Requirement





Statutory/ Regulatory Framework

- Javits-Wagner-O'Day Act, 41 U.S.C. Chapter 85
- Committee Regulations - 41 CFR Chapter 51
- FAR Subpart 8.7 – Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled
- FAR 6.302-5, Authorized or Required by Statute
- DFARS Subpart 208.7, Acquisition from Nonprofit Agencies Employing People Who are Blind or Severely Disabled
- DFARS Procedures, Guidance, and Information (PGI), 207.105, Contents of written acquisition plans
- OMB Circular A-122, Cost Principles for Non-Profit Organizations





What is the Mandatory Source Requirement?

- AbilityOne is the **required source** for products and services on the Procurement List
- Federal customer is **required to buy** AbilityOne products and cannot purchase commercial equivalents determined Essentially the Same (ETS)
- A product is determined ETS to an AbilityOne product if the two products have the same:
 - Form - appearance, shape, design, color, texture, quality, features
 - Fit - size or dimensional characteristics
 - Function – purpose
- The AbilityOne Commission designates commercial products as ETS to AbilityOne products





What is the Legal Basis for the Mandatory Source Requirement?

Javits-Wagner-O'Day Act

- Requires Government to purchase products and services on the Procurement List
- Establishes the AbilityOne Program
- Defines roles and responsibilities of U.S. AbilityOne Commission including:
 - AbilityOne Program regulations and policy
 - Maintaining Federal Procurement List
 - Procurement List (www.abilityone.gov)
 - Determining Fair Market Price (FMP) for products and services





What is the Regulatory Framework?

- **FAR Subpart 8.7: Acquisitions from NPAs . . .**
 - Implements JWOD Act and Commission rules
 - At prices established by the Commission
 - From AbilityOne participating nonprofit agencies

- **41 CFR 51-6: Procurement Procedures**
 - Specification changes
 - Variations of products on the Procurement List
 - Replacement products





Enforcing the Mandatory Source Requirement

The mandatory source requirement is met by:

1. Purchasing mandatory AbilityOne products; become familiar with the Procurement List at www.abilityone.gov
2. Not purchasing products similar to AbilityOne products when such commercial products are offered by vendors
3. Ensuring language that requires the purchase of AbilityOne products is included in all bids and solicitations
4. Ensuring authorized distributors do not market and sell essentially the same (ETS) products





Enforcing the Mandatory Source Requirement

- How to Purchase the mandatory AbilityOne products:
 1. Visit the mandatory Procurement List at http://www.abilityone.gov/procurement_list/index.html
 2. By national stock number or description, search for the product or equivalent products made by the Program for purchase.
 3. Contact NIB or NISH for any questions concerning who manufactures a product or capabilities.





This is where you find the Procurement List

Procurement - Windows Internet Explorer

http://www.abilityone.gov/procurement_list/index.html

Tuesday, January 10, 2012

AbilityOne.gov
U.S. AbilityOne Commission
J. Anthony Poleo, Chairperson
Tina Ballard, Executive Director

E-Vote | Media Room | Contact Us

Home | Commission | AbilityOne Program | AbilityOne Network | **Procurement List** | Distributors | Laws and Regulations

Procurement List

- Procurement List Products
 - Search Products
 - How to Buy Products
- Procurement List Services
 - Search Services
 - How to Buy Services
- Contract Management Services
- Procurement List Additions
- AbilityOne Catalog

Home > Procurement List

Listen to article

Procurement

The Commission maintains a Procurement List of products and services which have been placed in the AbilityOne® Program, as referenced in FAR Subparts 8.0 and 8.7. Once a product or service is on the Procurement List, the Government must buy it from the organization designated by the Commission until the government no longer has requirements for that item, or until a nonprofit agency employing people who are blind or have with severe significant disabilities can no longer furnish that item.

In addition to the many products available under the AbilityOne Program, people who are blind or have other severe disabilities also provide a wide range of services to meet the needs of Federal customers. Each service contract is added to the AbilityOne Program individually with the involvement and cooperation of the Federal contracting activity.

Services can be found on the Procurement List, but it is important to remember that the Procurement List does not include an exhaustive list of services that can be provided under the AbilityOne Program. The capabilities of AbilityOne-participating nonprofit agencies are endless, therefore, Federal customers should contact the appropriate NIB or NISH office for more information about AbilityOne service capabilities in your area.

How to Buy Products and Services

For more information on how to purchase AbilityOne products or services, please visit [How to Buy Products](#) or [How to Buy Services](#).

To search for products or services on the Procurement List, please visit [Search Product List](#) or [Search Services List](#).

To download complete listings from the Procurement List, please download the [Products List here](#) and the [Services List here](#).

The AbilityOne logo is a registered trademark of the U.S. AbilityOne Commission which administers the AbilityOne Program.

info@abilityone.gov
Feedback or Suggestions
(800) 999-5963

Get Adobe Reader
Get Adobe Reader

Download
Products List- Excel
Services List- Excel

The Committee for Purchase From People Who Are Blind or Severely Disabled operates as the U.S. AbilityOne Commission.
[Freedom of Information Act](#)

(800) 999-5963 | info@abilityone.gov | Privacy Policy | Site Map ©2011 U.S. AbilityOne Commission all rights reserved.

The U.S. AbilityOne Commission is committed to maintaining a website that is accessible to all visitors, and encourages public comments and suggestions for improvements.





Where to Buy AbilityOne Products

- GSA Global Supply – www.GSAGlobalsupply.gsa.gov
- GSA Advantage!® – www.gsaadvantage.gov
- DoD EMALL – www.emall.dla.mil
- Base Supply Centers – Over 140 Federal locations
- Multiple Award Schedule Holders - Authorized AbilityOne Distributors
- Official on-line store – www.abilityone.com





What Steps Can be Taken to Ensure Compliance with the Mandatory Source Requirements?

1. Conduct semi-annual training for all contracting officers and specialists on the mandatory source requirements of the AbilityOne Program.
2. Mandate annual training to senior procurement officials on the mandatory source requirements of the AbilityOne Program within each Federal agency.
3. Mandate purchasing “mandatory” by purchasing and/or soliciting AbilityOne products only.
4. Request training and education seminars.



Transcript of video presented by Harlan Erker, Manager, Base Supply Center Program, NIB
View this video at <http://www.youtube.com/watch?v=fyQLv5Ec2s8> [dated 11-19-2011]

AbilityOne Program Product and Essentially the Same (ETS) Overview

1. Introduction

My name is Harlan Erker. I'd like to talk to you today about the AbilityOne Program, the products offered within the AbilityOne Program, how you can and why you should support the AbilityOne Program.

2. Program Mission

The AbilityOne Program is a Federal program designed to provide employment opportunities for people who are blind or have other significant disabilities. These employment opportunities are provided through the provision of goods or services to the federal customer.

3. AbilityOne Program Structure

The AbilityOne Program is provided oversight by the U.S. AbilityOne Commission which oversees National Industries for the Blind and NISH who are the two central governing nonprofits that oversee approximately 600 nonprofits across the country who employ people who are blind or have significant disabilities.

4. Why this is [Program] Important

Today there are over 18 million working-age adults across the country who are blind or severely disabled. Of this population, over 70% are unemployed -- representing over 12 million Americans who are without jobs. Within the Program, there are over 47,000 people who are blind or significantly disabled.

5. Benefits to the Federal Customer

With over 70 years of experience partnering with the Federal customer, the AbilityOne Program has been able to develop over 3,200 commonly used office and janitorial products designed for the Federal user. This relationship has allowed agencies within the AbilityOne Program to design products with the Federal user in mind specifically compliant with any procurement regulations. Additionally, these products are created by a highly motivated workforce of Americans who are blind or have other significant disabilities.

6. AbilityOne Product Lines

There are two primary product lines within the AbilityOne Program. The first is commodity products; which consists of general office products, writing instruments, cleaning and janitorial supplies, hardware and paints, food service and operations supplies. There are also niche and textile products which are safety and medical products and military specific products.

7. Office Supplies

Office supplies have been a staple of the AbilityOne Program product offering for over 50 years. The most recognizable office product offered under the AbilityOne Program is writing instruments. Today, there are over 90 writing instruments offered under the AbilityOne Program designed to meet the needs of any Federal user. In addition to writing instruments, there are several other office supplies offered under the AbilityOne Program including filing supplies, computer accessories, mailing labels, wall boards, easels, steno pads and many more.

8. Cleaning Products

Cleaning products are another recognizable AbilityOne product with trash bags, hand sanitizers, mops, brooms, and other types of cleaners being offered within the AbilityOne Program.

9. “Green” Products

Because of the relationship between the Federal customer and the AbilityOne Program, products in the AbilityOne Program have been designed with specific needs of the Federal buyer in mind, such as Executive Order 13,101, the initiative for Greening the Government. Some of the products designed with this greening initiative in mind include biodegradable and compostable products, recycled content products, and environmentally friendly cleaning agents.

10. Custom Products

In a continued effort to best meet the needs of the Federal customer and at the same time expand the employment opportunities for people who are blind or have significant disabilities, several agencies within the AbilityOne Program have developed customized products. These are typically customized versions of products already manufactures by an agency, such as wall clocks, classification folders, customized writing instruments, and customized portfolio pads.

11. Safety & Personal Care

Safety and personal care items are also offered under the AbilityOne Program. Such products include medical kits and devices, fire hoses, flashlights, and gloves.

12. Military Unique Products

The AbilityOne Program has a long standing history of supporting the United States military through the production of products essential to the mission of today’s warfighter. Such products include the Army’s Improved Physical Fitness Uniform, the Airman’s Battle Uniform, the Army Combat Uniform, the Air Force’s Physical Fitness Uniform, as well as several other component parts used by today’s warfighter.

13. What is Essentially the Same (ETS)?

Now that you have an understanding of the broad product lines offered under the AbilityOne Program, it is important to understand how you can support the Program. Paramount in this is an understanding of what “essentially the same” is and how you can recognize ETS items. For most products offered under the AbilityOne Program there is a commercial product that has been deemed equivalent in fit, form, and function. When such a product exists, it is required by the Federal customer to buy the AbilityOne product. If you ever have a question whether or not a product is available through the AbilityOne Program, you can access the Procurement List which contains all AbilityOne products at www.abilityone.gov.

14. Helping with ETS Compliance

Being ETS compliant requires effort by the AbilityOne Program as well as you, the Federal customer. The AbilityOne Program makes an effort to ensure all commercial distributors maintain ETS-free product offerings. The AbilityOne Program also works with GSA to install preventative measures to ensure the end user does not see non-compliant products. What you –the Federal customer—can do is make sure you buy AbilityOne products that are listed on the Procurement List. This can be done by purchasing from authorized AbilityOne distributors. When purchasing products, look for the AbilityOne logo and please report any non-compliant products to National Industries for the Blind. Please become an advocate for the AbilityOne Program.

15. The Regulation

While we want you to support the AbilityOne Program for the high quality products offered we also want you to understand that it is also part of the Federal Acquisition Regulations. FAR part 8.7 states that the Federal customers are requirement to purchase items that are on the Procurement List. Prices for these products are established by the U.S. AbilityOne Commission and products are manufactured by AbilityOne participating nonprofit agencies employing people who are blind or have other severe disabilities.

CFR 51.6 outlines procurement guidelines when specification changes need to be made to an AbilityOne product or the AbilityOne Program cannot meet the need of the Federal customer.

16. When to Buy AbilityOne Products

It is important to support the AbilityOne Program at any dollar value – whether it is a box of pens or a large order of office products – you are still required to buy the products offered under the AbilityOne Program.

17. Where to Buy AbilityOne Products

In attempt to make buying under the AbilityOne Program as easy as possible, there are several channels that are available for purchasing AbilityOne products. Such channels include GSA Global Supply, GSA Advantage, DoD Email, over 140 base supply centers on Federal locations, multiple award schedule holders, and www.abilityone.com.

18. Customer Satisfaction

The AbilityOne Program recognizes that customer satisfaction is crucial in achieving our mission of creating jobs for people who are blind or severely disabled.

19. Contact Information

If there is a product not offered that you would like to see supplied, please contact the U.S. AbilityOne Commission, National Industries for the Blind, or NISH.

On behalf of the AbilityOne Program and the over 42,000 Americans who are blind or have significant disabilities who are employed under the Program, I'd like to say thank you for taking time out today to learn how you can continue to support the AbilityOne Program.

Standardized Contract Language

Overview:

The AbilityOne Program is a federal program that generates jobs for individuals who are blind or otherwise severely disabled through the manufacturing of products or the provision of services required by federal personnel. The Javits-Wagner-O'Day (JWOD) Act (41 USC Chapter 85) established the AbilityOne Program which is administered by the Committee for Purchase From People Who Are Blind or Severely Disabled ("Committee"). Products and services on the AbilityOne Procurement List are mandatory for use by federal customers. If you are attempting to place products on a Schedule that overlap the AbilityOne products, you are encouraged to become an authorized distributor of AbilityOne products. For more information on the AbilityOne Program, please visit www.abilityone.gov.

"Essentially the Same" (ETS) Commercial Products:

Certain products required through this contract are considered ETS as products on the AbilityOne Procurement List. Because the AbilityOne products are mandatory purchases for federal customers, contractors are required to remove the commercial ETS items from its offer. The Procurement List and the current AbilityOne catalog can be viewed from www.abilityone.gov. The cross-reference files that list office and janitorial/sanitation products that are ETS are available at www.abilityone.gov/distributors/potential.html. The ETS files do not include private label products. Contractors must have private label products reviewed by the AbilityOne personnel for ETS. All contractors are subject to a formal ETS review conducted by AbilityOne personnel. Failure to comply with removing private label products will result in a unilateral modification of your GSA contract and suspension of authorization as an AbilityOne dealer for a period of 90 days. In accordance with the cancellation clause of your schedule (INSERT CANCELLATION CLAUSE) failure to comply with AbilityOne Program requirements will result in cancellation of your contract.

Authorized Distributor Program:

The AbilityOne Program authorizes commercial contractors to distribute AbilityOne products to federal customers. Contractors must be officially authorized prior to selling AbilityOne products. Contractors seeking authorization must demonstrate how its order entry system will automatically block the sale of commercial ETS items to federal customers and substitute the appropriate

AbilityOne product. Contractors that become authorized to distribute AbilityOne products must include the appropriate AbilityOne product offering on its contract. Please visit www.abilityone.gov/distributors/potential.html to download the application for authorization. Regardless of whether a contractor is authorized to distribute AbilityOne products or not, no contractor shall be permitted to sell commercial ETS items under this contract. Point of contact at the AbilityOne Program is Mr. Eric Beale at ebeale@abilityone.gov or (703) 603-2119.

Pricing of AbilityOne Products:

The AbilityOne Program strives to ensure that the prices federal customers pay for its products are fair market prices. When applying for authorization, contractors will be required to provide its proposed mark-ups to the Committee staff for review. The purpose of the review is to ensure that AbilityOne products offered to federal customers are competitively priced. Contractors should provide its “mark-up percentage above cost” when submitting AbilityOne products to GSA for inclusion on the Schedule.

Dec. 28, 2011



info@abilityone.gov
703-603-7740 voice 703-603-0655 fax

Jefferson Plaza 2, Suite 10-800
1421 Jefferson Davis Highway
Arlington, Virginia 22202-3259

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

REFERENCES

This section is filled with documents that provide information specific to the part of the AbilityOne Program's mission that relates to products manufactured by Americans who are blind or who have other significant disabilities employed by nonprofit agencies that qualify to participate. It duplicates information available on various Government sites (including www.AbilityOne.gov) for easy access without an internet connection.

The material selected provides the source for answers to frequently asked questions for AbilityOne products. The focus is training for Federal users on the Program's legal requirements for mandatory purchases from the Procurement List. It includes procurement policy that supports the U.S. AbilityOne Commission's mission and priority procurement status (only preceded by Federal Prison Industries, established under chapter 307 of title 18 and that is required under section 4124 of title 18 to be procured from that industry).

Dec 28, 2011



Public Law 111–350
111th Congress

An Act

To enact certain laws relating to public contracts as title 41, United States Code,
“Public Contracts”.

*Be it enacted by the Senate and House of Representatives of the United States of America
in Congress assembled,*

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Table of contents.
- Sec. 2. Purpose; conformity with original intent.
- Sec. 3. Enactment of Title 41, United States Code.
- Sec. 4. Conforming amendment.
- Sec. 5. Conforming cross-references.
- Sec. 6. Transitional and savings provisions.
- Sec. 7. Repeals.

SECTION 2. PURPOSE; CONFORMITY WITH ORIGINAL INTENT.

(a) PURPOSE.—The purpose of this Act is to enact certain laws relating to public contracts as title 41, United States Code, “Public Contracts”.

(b) CONFORMITY WITH ORIGINAL INTENT.—In the codification of laws by this Act, the intent is to conform to the understood policy, intent, and purpose of Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions, and other imperfections, in accordance with section 205(c)(1) of House Resolution No. 988, 93d Congress, as enacted into law by Public Law 93–554 (2 U.S.C. 285b(1)).

SECTION 3. ENACTMENT OF TITLE 41, UNITED STATES CODE.

Certain general and permanent laws of the United States, related to public contracts, are revised, codified, and enacted as title 41, United States Code, “Public Contracts”, as follows:

TITLE 41—PUBLIC CONTRACTS

##

Subtitle I. FEDERAL PROCUREMENT POLICY

Sec. 101

Division A – General

Division B – Office of Federal Procurement Policy

Chapter 11 – Establishment of Office and Authority and Functions of Administrator

Chapter 13 – Acquisition Councils

Chapter 15 – Cost Accounting Standards

Chapter 17 – Agency Responsibilities and Procedures

Chapter 19 – Simplified Acquisition Procedures

Chapter 21 – Restrictions on Obtaining and Disclosing Certain Information

Chapter 23 -- Miscellaneous

Division C -- Procurement

Chapter 31 -- General

Chapter 33 – Planning and Solicitation

Chapter 35 – Truthful Cost or Pricing Data

Chapter 37 – Awarding of Contracts

Chapter 39 – Specific Types of Contracts

Chapter 41 – Task and Delivery Order Contracts

Chapter 43 – Allowable Costs

Chapter 45 – Contract Financing

Chapter 47 -- Miscellaneous

Subtitle II. OTHER ADVERTISING AND CONTRACT PROVISIONS

Sec. 6101

Chapter 61 – Advertising

Chapter 63 – General Contract Provisions

Chapter 65 – Contracts for Material, Supplies, Articles, and Equipment Exceeding \$10,000

Chapter 67 – Service Contract Labor Standards

Subtitle III. CONTRACT DISPUTES Sec. 7101

Chapter 71 – Contract Disputes

Subtitle IV. MISCELLANEOUS Sec. 8101

Chapter 81 – Drug-Free Workplace

Chapter 83 – Buy American

Chapter 85 – Committee for Purchase From People Who Are Blind or Severely Disabled

Chapter 87 – Kickbacks

SECTION 4. CONFORMING AMENDMENT

SECTION 5. CONFORMING CROSS-REFERENCES

SECTION 6. TRANSITIONAL AND SAVINGS PROVISIONS

SECTION 7. REPEALS

CHAPTER 85—COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Section.

8501. Definitions.

8502. Committee for Purchase From People Who Are Blind or Severely Disabled.

8503. Duties and powers of the Committee.

8504. Procurement requirements for the Federal Government.

8505. Audit.

8506. Authorization of appropriations.

§ 8501. Definitions

In this chapter:

(1) **BLIND.**—The term “blind” refers to an individual or class of individuals whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

(2) **COMMITTEE.**—The term “Committee” means the Committee for Purchase From People Who Are Blind or Severely Disabled established under section 8502 of this title.

(3) **DIRECT LABOR.**—The term “direct labor” —

(A) includes all work required for preparation, processing, and packing of a product, or work directly relating to the performance of a service; but

(B) does not include supervision, administration, inspection, or shipping.

(4) **ENTITY OF THE FEDERAL GOVERNMENT AND FEDERAL GOVERNMENT.**—The terms “entity of the Federal Government” and “Federal Government” include an entity of the legislative or judicial branch, a military department or executive agency (as defined in sections 102 and 105 of title 5, respectively), the United States Postal Service, and a non-appropriated fund instrumentality under the jurisdiction of the Armed Forces.

(5) **OTHER SEVERELY DISABLED.**—The term “other severely disabled” means an individual or class of individuals under a physical or mental disability, other than blindness, which (according to criteria established by the Committee after consultation with appropriate entities of the Federal Government and taking into account the views of non-Federal Government entities representing the disabled) constitutes a

substantial handicap to employment and is of a nature that prevents the individual from currently engaging in normal competitive employment.

(6) **QUALIFIED NONPROFIT AGENCY FOR OTHER SEVERELY DISABLED.**— The term “qualified nonprofit agency for other severely disabled” means an agency—

- (A)(i) organized under the laws of the United States or a State;
- (ii) operated in the interest of severely disabled individuals who are not blind; and
- (iii) of which no part of the net income of the agency inures to the benefit of a shareholder or other individual;

(B) that complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

(C) that in the production of products and in the provision of services (whether or not the products or services are procured under this chapter) during the fiscal year employs blind or other severely disabled individuals for at least 75 percent of the hours of direct labor required for the production or provision of the products or services.

(7) **QUALIFIED NONPROFIT AGENCY FOR THE BLIND.**—The term “qualified nonprofit agency for the blind” means an agency—

- (A)(i) organized under the laws of the United States or a State;
- (ii) operated in the interest of blind individuals; and
- (iii) of which no part of the net income of the agency inures to the benefit of a shareholder or other individual;

(B) that complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

(C) that in the production of products and in the provision of services (whether or not the products or services are procured under this chapter) during the fiscal year employs blind individuals for at least 75 percent of the hours of direct labor required for the production or provision of the products or services.

(8) **SEVERELY DISABLED INDIVIDUAL.**—The term “severely disabled individual” means an individual or class of individuals under a physical or mental disability, other than blindness, which (according to criteria established by the Committee after consultation with appropriate entities of the Federal Government and taking into account the views of non-Federal Government entities representing the disabled) constitutes a substantial handicap to employment and is of a nature that prevents the individual from currently engaging in normal competitive employment.

(9) **STATE.**—The term “State” includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

§ 8502. Committee for Purchase From People Who Are Blind or Severely Disabled

(a) ESTABLISHMENT.—There is a Committee for Purchase From People Who Are Blind or Severely Disabled.

(b) COMPOSITION.—The Committee consists of 15 members appointed by the President as follows:

(1) One officer or employee from each of the following, nominated by the head of the department or agency:

(A) The Department of Agriculture.

(B) The Department of Defense.

(C) The Department of the Army.

(D) The Department of the Navy.

(E) The Department of the Air Force.

(F) The Department of Education.

(G) The Department of Commerce.

(H) The Department of Veterans Affairs.

(I) The Department of Justice.

(J) The Department of Labor.

(K) The General Services Administration.

(2) One member from individuals who are not officers or employees of the Federal Government and who are conversant with the problems incident to the employment of the blind.

(3) One member from individuals who are not officers or employees of the Federal Government and who are conversant with the problems incident to the employment of other severely disabled individuals.

(4) One member from individuals who are not officers or employees of the Federal Government and who represent blind individuals employed in qualified nonprofit agencies for the blind.

(5) One member from individuals who are not officers or employees of the Federal Government and who represent severely disabled individuals (other than blind individuals) employed in qualified nonprofit agencies for other severely disabled individuals.

(c) **TERMS OF OFFICE.**—Members appointed under paragraph (2), (3), (4), or (5) of subsection (b) shall be appointed for terms of 5 years and may be reappointed if the member meets the qualifications prescribed by those paragraphs.

(d) **CHAIRMAN.**—The members of the Committee shall elect one of the members to be Chairman.

(e) **VACANCY.**—

(1) **MANNER IN WHICH FILLED.**—A vacancy in the membership of the Committee shall be filled in the manner in which the original appointment was made.

(2) **UNFULFILLED TERM.**—A member appointed under paragraph (2), (3), (4), or (5) of subsection (b) to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term. The member may serve after the expiration of a term until a successor takes office.

(f) **PAY AND TRAVEL EXPENSES.**—

(1) **AMOUNT TO WHICH MEMBERS ARE ENTITLED.**—Except as provided in paragraph (2), members of the Committee are entitled to receive the daily equivalent of the maximum annual rate of basic pay payable for level IV of the Executive Schedule for each day (including travel-time) during which they perform services for the Committee. A member is entitled to travel expenses, including a per diem allowance instead of subsistence, as provided under section 5703 of title 5.

(2) **OFFICERS OR EMPLOYEES OF THE FEDERAL GOVERNMENT.**—

Members who are officers or employees of the Federal Government may not receive additional pay because of their service on the Committee.

(g) **STAFF.**—

(1) **APPOINTMENT AND COMPENSATION.**—Subject to rules the Committee may adopt and to chapters 33 and 51 and subchapter III of chapter 53 of title 5, the Chairman may appoint and fix the pay of personnel the Committee determines are necessary to assist it in carrying out this chapter.

(2) **PERSONNEL FROM OTHER ENTITIES.**—On request of the Committee, the head of an entity of the Federal Government may detail, on a reimbursable basis, any personnel of the entity to the Committee to assist it in carrying out this chapter.

(h) **OBTAINING OFFICIAL INFORMATION.**—The Committee may secure directly from an entity of the Federal Government information necessary to enable it to carry out this chapter. On request of the Chairman, the head of the entity shall furnish the information to the Committee.

(i) **ADMINISTRATIVE SUPPORT SERVICES.**—The Administrator of General Services shall provide to the Committee, on a reimbursable basis, administrative support services the Committee requests.

(j) ANNUAL REPORT.—Not later than December 31 of each year, the Committee shall transmit to the President a report that includes the names of the Committee members serving in the prior fiscal year, the dates of Committee meetings in that year, a description of the activities of the Committee under this chapter in that year, and any recommendations for changes in this chapter which the Committee determines are necessary.

§ 8503. Duties and powers of the Committee

(a) PROCUREMENT LIST.—

(1) MAINTENANCE OF LIST.—The Committee shall maintain and publish in the Federal Register a procurement list. The list shall include the following products and services determined by the Committee to be suitable for the Federal Government to procure pursuant to this chapter:

(A) Products produced by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely disabled.

(B) The services those agencies provide.

(2) CHANGES TO LIST.—The Committee may, by rule made in accordance with the requirements of section 553(b) to (e) of title 5, add to and remove from the procurement list products so produced and services so provided.

(b) FAIR MARKET PRICE.—The Committee shall determine the fair market price of products and services contained on the procurement list that are offered for sale to the Federal Government by a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely disabled. The Committee from time to time shall revise its price determinations with respect to those products and services in accordance with changing market conditions.

(c) CENTRAL NONPROFIT AGENCY OR AGENCIES.—The Committee shall designate a central nonprofit agency or agencies to facilitate the distribution, by direct allocation, subcontract, or any other means, of orders of the Federal Government for products and services on the procurement list among qualified nonprofit agencies for the blind or qualified nonprofit agencies for other severely disabled.

(d) REGULATIONS.—The Committee—

(1) may prescribe regulations regarding specifications for products and services on the procurement list, the time of their delivery, and other matters as necessary to carry out this chapter; and

(2) shall prescribe regulations providing that when the Federal Government purchases products produced and offered for sale by qualified nonprofit agencies for the blind or qualified nonprofit agencies for other severely disabled, priority shall be given to products produced and offered for sale by qualified nonprofit agencies for the blind.

(e) STUDY AND EVALUATION OF ACTIVITIES.—The Committee shall make a continuing study and evaluation of its activities under this chapter to ensure effective and efficient administration of this

chapter. The Committee on its own or in cooperation with other public or nonprofit private agencies may study—

- (1) problems related to the employment of the blind and other severely disabled individuals; and
- (2) the development and adaptation of production methods that would enable a greater utilization of the blind and other severely disabled individuals.

§ 8504. Procurement requirements for the Federal Government

(a) IN GENERAL.—An entity of the Federal Government intending to procure a product or service on the procurement list referred to in section 8503 of this title shall procure the product or service from a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely disabled in accordance with regulations of the Committee and at the price the Committee establishes if the product or service is available within the period required by the entity.

(b) EXCEPTION.—This section does not apply to the procurement of a product that is available from an industry established under chapter 307 of title 18 and that is required under section 4124 of title 18 to be procured from that industry.

§ 8505. Audit

For the purpose of audit and examination, the Comptroller General shall have access to the books, documents, papers, and other records of—

- (1) the Committee and of each central nonprofit agency the Committee designates under section 8503(c) of this title; and
- (2) qualified nonprofit agencies for the blind and qualified nonprofit agencies for other severely disabled that have sold products or services under this chapter to the extent those books, documents, papers, and other records relate to the activities of the agency in a fiscal year in which a sale was made under this chapter.

§ 8506. Authorization of appropriations

Necessary amounts may be appropriated to the Committee to carry out this chapter.

Pub. L. 102-396, title IX, §9096, Oct. 6, 1992, 106 Stat. 1924, as amended by Pub. L. 103-355, title VII, §7206(b), Oct. 13, 1994, 108 Stat. 3382.

Pub. L. 102-190, div. A, title VIII, §833, Dec. 5, 1991, 105 Stat. 1447.

Pub. L. 102-172, title VIII, §8123, Nov. 26, 1991, 105 Stat. 1205.

Pub. L. 101-189, div. A, title VIII, §823, Nov. 29, 1989, 103 Stat. 1504.

§ 8305. Annual report

Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to Congress a report on the amount of purchases by the Department of Defense from foreign entities in that fiscal year. The report shall separately indicate the dollar value of items for which this chapter was waived pursuant to—

- (1) a reciprocal defense procurement memorandum of understanding described in section 8304(a) of this title;
- (2) the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.); or
- (3) an international agreement to which the United States is a party.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3833.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8305	41:10b-3.	Pub. L. 104-201, div. A, title VIII, §827, Sept. 23, 1996, 110 Stat. 2611; Pub. L. 105-85, div. A, title VIII, §846, Nov. 18, 1997, 111 Stat. 1845; Pub. L. 105-261, div. A, title VIII, §812, Oct. 17, 1998, 112 Stat. 2086.

CHAPTER 85—COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Sec.
 8501. Definitions.
 8502. Committee for Purchase From People Who Are Blind or Severely Disabled.
 8503. Duties and powers of the Committee.
 8504. Procurement requirements for the Federal Government.
 8505. Audit.
 8506. Authorization of appropriations.

§ 8501. Definitions

In this chapter:

- (1) **BLIND.**—The term “blind” refers to an individual or class of individuals whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.
- (2) **COMMITTEE.**—The term “Committee” means the Committee for Purchase From People Who Are Blind or Severely Disabled established under section 8502 of this title.
- (3) **DIRECT LABOR.**—The term “direct labor”—
 - (A) includes all work required for preparation, processing, and packing of a product, or work directly relating to the performance of a service; but

(B) does not include supervision, administration, inspection, or shipping.

(4) **ENTITY OF THE FEDERAL GOVERNMENT AND FEDERAL GOVERNMENT.**—The terms “entity of the Federal Government” and “Federal Government” include an entity of the legislative or judicial branch, a military department or executive agency (as defined in sections 102 and 105 of title 5, respectively), the United States Postal Service, and a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

(5) **OTHER SEVERELY DISABLED.**—The term “other severely disabled” means an individual or class of individuals under a physical or mental disability, other than blindness, which (according to criteria established by the Committee after consultation with appropriate entities of the Federal Government and taking into account the views of non-Federal Government entities representing the disabled) constitutes a substantial handicap to employment and is of a nature that prevents the individual from currently engaging in normal competitive employment.

(6) **QUALIFIED NONPROFIT AGENCY FOR OTHER SEVERELY DISABLED.**—The term “qualified nonprofit agency for other severely disabled” means an agency—

- (A)(i) organized under the laws of the United States or a State;
- (ii) operated in the interest of severely disabled individuals who are not blind; and
- (iii) of which no part of the net income of the agency inures to the benefit of a shareholder or other individual;
- (B) that complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and
- (C) that in the production of products and in the provision of services (whether or not the products or services are procured under this chapter) during the fiscal year employs blind or other severely disabled individuals for at least 75 percent of the hours of direct labor required for the production or provision of the products or services.

(7) **QUALIFIED NONPROFIT AGENCY FOR THE BLIND.**—The term “qualified nonprofit agency for the blind” means an agency—

- (A)(i) organized under the laws of the United States or a State;
- (ii) operated in the interest of blind individuals; and
- (iii) of which no part of the net income of the agency inures to the benefit of a shareholder or other individual;
- (B) that complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and
- (C) that in the production of products and in the provision of services (whether or not the products or services are procured under this chapter) during the fiscal year employs blind individuals for at least 75 percent of the hours of direct labor required for the production or provision of the products or services.

(8) **SEVERELY DISABLED INDIVIDUAL.**—The term “severely disabled individual” means an

individual or class of individuals under a physical or mental disability, other than blindness, which (according to criteria established by the Committee after consultation with appropriate entities of the Federal Government and taking into account the views of non-Federal Government entities representing the disabled) constitutes a substantial handicap to employment and is of a nature that prevents the individual from currently engaging in normal competitive employment.

(9) STATE.—The term “State” includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3833.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8501(1)	41:48b(1).	June 25, 1938, ch. 697, §5, 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 81; Pub. L. 93-358, §1(3), July 25, 1974, 88 Stat. 393; Pub. L. 94-273, §3(22), Apr. 21, 1976, 90 Stat. 377.
8501(2)	41:46(a) (words in parentheses before par. (1)).	June 25, 1938, ch. 697, §1(a) (words in parentheses before par. (1)), 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 77.
8501(3)	41:48b(5).	
8501(4)	41:48b(7).	
8501(5)	41:48b(2).	
8501(6)	41:48b(4).	
8501(7)	41:48b(3).	
8501(8)	41:48b(2).	
8501(9)	41:48b(8).	

In this chapter, the word “disabled” is substituted for “handicapped” for consistency with the name of the Committee. The word “product” is substituted for “commodity” to reflect the current usage of the items produced in the Committee’s program.

In this section, the text of 41:48b(6) is omitted as unnecessary.

In paragraph (9), the words “the Northern Mariana Islands” are substituted for “the Trust Territory of the Pacific Islands” because the Trust Territory of the Pacific Islands terminated. See 48 U.S.C. note prec. 1681. However, section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1801 note) provided that laws in existence on the effective date of section 502 that were applicable to Guam and that were of general application to the several States would apply to the Northern Mariana Islands. The Marshall Islands, Palau, and the Federated States of Micronesia are not included because although they were part of the Trust Territory of the Pacific Islands, they are independent entities and not part of the United States.

CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES

Pub. L. 109-364, div. A, title VIII, §856(a), (d), Oct. 17, 2006, 120 Stat. 2347, 2349, provided that:

“(a) INAPPLICABILITY OF CERTAIN LAWS.—

“(1) INAPPLICABILITY OF THE RANDOLPH-SHEPPARD ACT TO CONTRACTS AND SUBCONTRACTS FOR MILITARY DINING FACILITY SUPPORT SERVICES COVERED BY JAVITS-WAGNER-O’DAY ACT.—The Randolph-Sheppard Act (20 U.S.C. 107 et seq.) does not apply to full food services, mess attendant services, or services supporting the operation of a military dining facility that, as of the date of the enactment of this Act [Oct. 17, 2006], were services on the procurement list established under section 2 of the Javits-Wagner-O’Day Act ([former] 41 U.S.C. 47) [now 41 U.S.C. 8503].

“(2) INAPPLICABILITY OF THE JAVITS-WAGNER-O’DAY ACT TO CONTRACTS FOR THE OPERATION OF A MILITARY

DINING FACILITY.—(A) The Javits-Wagner-O’Day Act ([former] 41 U.S.C. 46 et seq.) [now 41 U.S.C. 8501 et seq.] does not apply at the prime contract level to any contract entered into by the Department of Defense as of the date of the enactment of this Act with a State licensing agency under the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) for the operation of a military dining facility.

“(B) The Javits-Wagner-O’Day Act [now 41 U.S.C. 8501 et seq.] shall apply to any subcontract entered into by a Department of Defense contractor for full food services, mess attendant services, and other services supporting the operation of a military dining facility.

“(3) REPEAL OF SUPERSEDED LAW.—[Repealed section 853(a), (b) of Pub. L. 108-375, 118 Stat. 2021.]

“(d) DEFINITIONS.—In this section:

“(1) The term ‘State licensing agency’ means any agency designated by the Secretary of Education under section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107a(a)(5)).

“(2) The term ‘military dining facility’ means a facility owned, operated, leased, or wholly controlled by the Department of Defense and used to provide dining services to members of the Armed Forces, including a cafeteria, 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.”

STATEMENT OF POLICY AND REPORT CONCERNING THE OPERATION AND MANAGEMENT OF CERTAIN MILITARY FACILITIES REGARDING THE BLIND OR SEVERELY DISABLED

Pub. L. 109-163, div. A, title VIII, §848(b), (c), Jan. 6, 2006, 119 Stat. 3395, provided that:

“(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 ([former] 41 U.S.C. 48 [46 et seq.]) [now 41 U.S.C. 8501 et seq.] within the Department of Defense and the Department of Education. 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 Chairman of 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, and the Committee on Education and the Workforce 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.”

§8502. Committee for Purchase From People Who Are Blind or Severely Disabled

(a) ESTABLISHMENT.—There is a Committee for Purchase From People Who Are Blind or Severely Disabled.

(b) COMPOSITION.—The Committee consists of 15 members appointed by the President as follows:

(1) One officer or employee from each of the following, nominated by the head of the department or agency:

- (A) The Department of Agriculture.
- (B) The Department of Defense.
- (C) The Department of the Army.
- (D) The Department of the Navy.
- (E) The Department of the Air Force.
- (F) The Department of Education.
- (G) The Department of Commerce.
- (H) The Department of Veterans Affairs.
- (I) The Department of Justice.
- (J) The Department of Labor.
- (K) The General Services Administration.

(2) One member from individuals who are not officers or employees of the Federal Government and who are conversant with the problems incident to the employment of the blind.

(3) One member from individuals who are not officers or employees of the Federal Government and who are conversant with the problems incident to the employment of other severely disabled individuals.

(4) One member from individuals who are not officers or employees of the Federal Government and who represent blind individuals employed in qualified nonprofit agencies for the blind.

(5) One member from individuals who are not officers or employees of the Federal Government and who represent severely disabled individuals (other than blind individuals) employed in qualified nonprofit agencies for other severely disabled individuals.

(c) **TERMS OF OFFICE.**—Members appointed under paragraph (2), (3), (4), or (5) of subsection (b) shall be appointed for terms of 5 years and may be reappointed if the member meets the qualifications prescribed by those paragraphs.

(d) **CHAIRMAN.**—The members of the Committee shall elect one of the members to be Chairman.

(e) **VACANCY.**—

(1) **MANNER IN WHICH FILLED.**—A vacancy in the membership of the Committee shall be filled in the manner in which the original appointment was made.

(2) **UNFULFILLED TERM.**—A member appointed under paragraph (2), (3), (4), or (5) of subsection (b) to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term. The member may serve after the expiration of a term until a successor takes office.

(f) **PAY AND TRAVEL EXPENSES.**—

(1) **AMOUNT TO WHICH MEMBERS ARE ENTITLED.**—Except as provided in paragraph (2), members of the Committee are entitled to receive the daily equivalent of the maximum annual rate of basic pay payable for level IV of the Executive Schedule for each day (including travel-time) during which they perform services for the Committee. A member is entitled to travel expenses, including a per diem allowance instead of subsistence, as provided under section 5703 of title 5.

(2) **OFFICERS OR EMPLOYEES OF THE FEDERAL GOVERNMENT.**—Members who are officers or employees of the Federal Government may not receive additional pay because of their service on the Committee.

(g) **STAFF.**—

(1) **APPOINTMENT AND COMPENSATION.**—Subject to rules the Committee may adopt and to chapters 33 and 51 and subchapter III of chapter 53 of title 5, the Chairman may appoint and fix the pay of personnel the Committee determines are necessary to assist it in carrying out this chapter.

(2) **PERSONNEL FROM OTHER ENTITIES.**—On request of the Committee, the head of an entity of the Federal Government may detail, on a reimbursable basis, any personnel of the entity to the Committee to assist it in carrying out this chapter.

(h) **OBTAINING OFFICIAL INFORMATION.**—The Committee may secure directly from an entity of the Federal Government information necessary to enable it to carry out this chapter. On request of the Chairman, the head of the entity shall furnish the information to the Committee.

(i) **ADMINISTRATIVE SUPPORT SERVICES.**—The Administrator of General Services shall provide to the Committee, on a reimbursable basis, administrative support services the Committee requests.

(j) **ANNUAL REPORT.**—Not later than December 31 of each year, the Committee shall transmit to the President a report that includes the names of the Committee members serving in the prior fiscal year, the dates of Committee meetings in that year, a description of the activities of the Committee under this chapter in that year, and any recommendations for changes in this chapter which the Committee determines are necessary.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3835.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8502(a), (b)	41:46(a) (less words in parentheses before par. (1)).	June 25, 1938, ch. 697, §1 (less (a) (words in parentheses before par. (1))), 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 77; Pub. L. 93-358, §1(i), (2), July 25, 1974, 88 Stat. 392; Pub. L. 94-273, §8(2), Apr. 21, 1976, 90 Stat. 378; Pub. L. 102-54, §13(p), June 13, 1991, 105 Stat. 278; Pub. L. 102-569, title IX, §911(a), Oct. 29, 1992, 106 Stat. 4486; Pub. L. 103-73, title III, §301, Aug. 11, 1993, 107 Stat. 736.
8502(c)	41:46(d)(1), (2), (4).	
8502(d)	41:46(c).	
8502(e)(1)	41:46(b).	
8502(e)(2)	41:46(d)(3).	
8502(f)	41:46(e).	
8502(g)	41:46(f).	
8502(h)	41:46(g).	
8502(i)	41:46(h).	
8502(j)	41:46(i).	

In subsection (b)(1)(F), the words “Department of Education” are substituted for “Department of Health and Human Services” in 41:46(a)(1) to correct a mistake in the United States Code. In the amendment to the original provision by section 1 of Public Law 92-28 (85 Stat. 77), an officer or employee of the Department of Health, Education, and Welfare was one of the members appointed to the Committee for Purchase From People Who Are Blind or Severely Disabled, because the Department, through the Rehabilitation Services Administration, had the major governmental function in the field of vocational rehabilitation for the blind and other severely handicapped and administered related vocational rehabilitation programs for individuals with disabilities. See House Report 92-228. Under section

301(a)(4)(A) and (C) and (b)(3) of the Department of Education Organization Act (20:3441(a)(4)(A) and (C) and (b)(3)), the functions and offices of the Department and the functions of the Secretary of Health, Education, and Welfare and the Commissioner of Rehabilitation Services were transferred to the Department or Secretary of Education. Section 509 of the Act (20:3508) redesignated the Department and Secretary of Health, Education, and Welfare as the Department and Secretary of Health and Human Services, respectively, and provided that references to the Department and Secretary of Health, Education, and Welfare were deemed to be references to the Department or Secretary of Health and Human Services except to the extent a reference was to a function of the Department or Secretary of Education. The reference in 41:46(a)(1) was changed to "Department of Health and Human Services" but should have been changed to "Department of Education". Furthermore, the regulations of the Committee include the Department of Education in the list of members of the Committee. See 41 CFR 51-2.1.

In subsection (c), the text of 41:46(d)(2) and (4) is omitted as obsolete.

In subsection (f)(1), the reference to section 5376 of title 5 is substituted for the reference to grade GS-18 of the General Schedule because of section 529 [title I, §101(c)(1)] of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101-509, 104 Stat. 1442, 5 U.S.C. 5376 note). The word "actual" is omitted as unnecessary. The words "A member is entitled to travel expenses, including a per diem allowance instead of subsistence, as provided under section 5703 of title 5" are substituted for 41:46(e)(3) to eliminate unnecessary words. The reference to section 5703 of title 5 is substituted for the reference to section 5703(b) of title 5 because of the amendment to section 5703 by section 4 of the Travel Expense Amendments Act of 1975 (Public Law 94-22, 89 Stat. 85).

In subsection (g), the words "its duties and powers" are omitted as surplus.

In subsection (g)(1), the reference to chapter 33 of title 5 is substituted for "the provisions of title 5 governing appointments in the competitive service" for clarity and for consistency with other titles of the United States Code. The words "relating to classification and General Schedule pay rates" are omitted as unnecessary.

In subsection (j), the words "and to the Congress" are omitted pursuant to section 3003 of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note). See, also, page 199 of House Document No. 103-7.

SENATE REVISION AMENDMENT

In subsec. (f)(1), "for level IV of the Executive Schedule" substituted for "under section 5376 of title 5" by S. Amdt. 4726 (111th Cong.). See 156 Cong. Rec. S8442, Dec. 2, 2010 (daily ed.).

§ 8503. Duties and powers of the Committee

(a) PROCUREMENT LIST.—

(1) MAINTENANCE OF LIST.—The Committee shall maintain and publish in the Federal Register a procurement list. The list shall include the following products and services determined by the Committee to be suitable for the Federal Government to procure pursuant to this chapter:

- (A) Products produced by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely disabled.
- (B) The services those agencies provide.

(2) CHANGES TO LIST.—The Committee may, by rule made in accordance with the requirements of section 553(b) to (e) of title 5, add to and remove from the procurement list products so produced and services so provided.

(b) FAIR MARKET PRICE.—The Committee shall determine the fair market price of products and services contained on the procurement list that are offered for sale to the Federal Government by a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely disabled. The Committee from time to time shall revise its price determinations with respect to those products and services in accordance with changing market conditions.

(c) CENTRAL NONPROFIT AGENCY OR AGENCIES.—The Committee shall designate a central nonprofit agency or agencies to facilitate the distribution, by direct allocation, subcontract, or any other means, of orders of the Federal Government for products and services on the procurement list among qualified nonprofit agencies for the blind or qualified nonprofit agencies for other severely disabled.

(d) REGULATIONS.—The Committee—

(1) may prescribe regulations regarding specifications for products and services on the procurement list, the time of their delivery, and other matters as necessary to carry out this chapter; and

(2) shall prescribe regulations providing that when the Federal Government purchases products produced and offered for sale by qualified nonprofit agencies for the blind or qualified nonprofit agencies for other severely disabled, priority shall be given to products produced and offered for sale by qualified nonprofit agencies for the blind.

(e) STUDY AND EVALUATION OF ACTIVITIES.—The Committee shall make a continuing study and evaluation of its activities under this chapter to ensure effective and efficient administration of this chapter. The Committee on its own or in cooperation with other public or nonprofit private agencies may study—

(1) problems related to the employment of the blind and other severely disabled individuals; and

(2) the development and adaptation of production methods that would enable a greater utilization of the blind and other severely disabled individuals.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3836.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8503(a)	41:47(a).	June 25, 1938, ch. 697, §2, 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 79.
8503(b)	41:47(b).	
8503(c)	41:47(c).	
8503(d)	41:47(d).	
8503(e)	41:47(e).	

In subsection (a), the text of 41:47(a)(1) (last sentence) is omitted as obsolete. The words "procurement list" are substituted for "(hereafter in sections 46 to 48c of this title referred to as the 'procurement list')" to eliminate unnecessary words.

In subsection (d)(2), the text of 41:47(d)(2)(B) is omitted as obsolete.

§ 8504. Procurement requirements for the Federal Government

(a) IN GENERAL.—An entity of the Federal Government intending to procure a product or

service on the procurement list referred to in section 8503 of this title shall procure the product or service from a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely disabled in accordance with regulations of the Committee and at the price the Committee establishes if the product or service is available within the period required by the entity.

(b) EXCEPTION.—This section does not apply to the procurement of a product that is available from an industry established under chapter 307 of title 18 and that is required under section 4124 of title 18 to be procured from that industry.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3837.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8504	41:48.	June 25, 1938, ch. 697, § 3, 52 Stat. 1196; Pub. L. 92-28, § 1, June 23, 1971, 85 Stat. 80.

In subsection (a), the words “referred to in section 8503 of this title” are added for clarity because of the restatement of 41:47(a) in section 8503(a) of the revised title.

In subsection (b), the words “for procurement” are omitted as unnecessary.

§ 8505. Audit

For the purpose of audit and examination, the Comptroller General shall have access to the books, documents, papers, and other records of—

(1) the Committee and of each central nonprofit agency the Committee designates under section 8503(c) of this title; and

(2) qualified nonprofit agencies for the blind and qualified nonprofit agencies for other severely disabled that have sold products or services under this chapter to the extent those books, documents, papers, and other records relate to the activities of the agency in a fiscal year in which a sale was made under this chapter.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3838.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8505	41:48a.	June 25, 1938, ch. 697, § 4, 52 Stat. 1196; Pub. L. 92-28, § 1, June 23, 1971, 85 Stat. 81.

In this section, before paragraph (1), the words “or any of his duly authorized representatives” are omitted because of 31:711(2). In paragraph (1), the words “central nonprofit” are added for clarity.

§ 8506. Authorization of appropriations

Necessary amounts may be appropriated to the Committee to carry out this chapter.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3838.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8506	41:48c.	June 25, 1938, ch. 697, § 6, 52 Stat. 1196; Pub. L. 92-28, § 1, June 23, 1971, 85 Stat. 82; Pub. L. 93-76, July 30, 1973, 87 Stat. 176; Pub. L. 93-358, § 1(4), July 25, 1974, 88 Stat. 393.

The reference to the fiscal year ending June 30, 1974 is omitted as obsolete.

CHAPTER 87—KICKBACKS

- Sec. 8701. Definitions.
- 8702. Prohibited conduct.
- 8703. Contractor responsibilities.
- 8704. Inspection authority.
- 8705. Administrative offsets.
- 8706. Civil actions.
- 8707. Criminal penalties.

§ 8701. Definitions

In this chapter:

(1) CONTRACTING AGENCY.—The term “contracting agency”, when used with respect to a prime contractor, means a department, agency, or establishment of the Federal Government that enters into a prime contract with a prime contractor.

(2) KICKBACK.—The term “kickback” means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided to a prime contractor, prime contractor employee, subcontractor, or subcontractor employee to improperly obtain or reward favorable treatment in connection with a prime contract or a subcontract relating to a prime contract.

(3) PERSON.—The term “person” means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

(4) PRIME CONTRACT.—The term “prime contract” means a contract or contractual action entered into by the Federal Government to obtain supplies, materials, equipment, or services of any kind.

(5) PRIME CONTRACTOR.—The term “prime contractor” means a person that has entered into a prime contract with the Federal Government.

(6) PRIME CONTRACTOR EMPLOYEE.—The term “prime contractor employee” means an officer, partner, employee, or agent of a prime contractor.

(7) SUBCONTRACT.—The term “subcontract” means a contract or contractual action entered into by a prime contractor or subcontractor to obtain supplies, materials, equipment, or services of any kind under a prime contract.

(8) SUBCONTRACTOR.—The term “subcontractor”—

(A) means a person, other than the prime contractor, that offers to furnish or furnishes supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with the prime contract; and

(B) includes a person that offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

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health requirements, the Director shall report such disclosures to the State agency.

(41 U.S.C. 40; 5 U.S.C. 556)

[32 FR 7704, May 26, 1967]

§ 50-205.10 Modification or termination of agreement.

Any agreement entered into this part may be modified at any time with the consent of both parties, and may be terminated by either party after notifying the other party 60 days prior thereto.

PART 50-210—STATEMENTS OF GENERAL POLICY AND INTERPRETATION NOT DIRECTLY RELATED TO REGULATIONS

Sec.

50-210.0 General enforcement policy.

50-210.1 Coverage under the Walsh-Healey Public Contracts Act of truck drivers employed by oil dealers.

AUTHORITY: Sec. 4, 49 Stat. 2038; 41 U.S.C. 38.

§ 50-210.0 General enforcement policy.

(a) In order to clarify at this time the practices and policies which will guide the administration and enforcement of the Fair Labor Standards Act of 1938 (52 Stat 1060, as amended, 29 U.S.C. 201-219), and the Walsh-Healey Public Contracts Act (49 Stat. 2036, as amended; 41 U.S.C. 35-45), as affected by the Portal-to-Portal Act of 1947 (Pub. L. 49, 80th Cong.), the following policy is announced effective June 30, 1947:

(b) The investigation, inspection and enforcement activities of all officers and agencies of the Department of Labor as they relate to the Fair Labor Standards Act (52 Stat. 1060, as amended, 29 U.S.C. 201-219) and the Walsh-Healey Public Contracts Act of June 30, 1936 (49 Stat. 2036, as amended; 41 U.S.C. 35-45), will be carried out on the basis that all employers in all industries whose activities are subject to the provisions of the Fair Labor Standards Act (52 Stat. 1060, as amended; 29 U.S.C.

201-219) or the Walsh-Healey Public Contracts Act (49 Stat. 2036, as amended; 41 U.S.C. 35-45) are responsible for strict compliance with the provisions thereof and the regulations issued pursuant thereto.

(c) Any statements, orders, or instructions inconsistent herewith are rescinded.

NOTE: The text of § 50-210.0 *General enforcement policy* is identical to that of § 775.0 under 29 CFR Chapter V.

[12 FR 3916, June 17, 1947. Redesignated at 24 FR 10952, Dec. 30, 1959]

§ 50-210.1 Coverage under the Walsh-Healey Public Contracts Act of truck drivers employed by oil dealers.

(a) The Division of Public Contracts returns to the interpretation contained in Rulings and Interpretations No. 2¹ with respect to coverage under the Walsh-Healey Public Contracts Act of truck drivers employed by oil dealers, by amending section 40(e)(1) of Rulings and Interpretations No. 3¹ to read as follows:

(1) Where the contractor is a dealer, the act applies to employees at the central distributing plant, including warehousemen, compounders, and chemists testing the lot out of which the Government order is filled, the crews engaged in loading the materials in vessels, tank cars or tank wagons for shipment, and truck drivers engaged in the activities described in section 37(m) above.² However, the contractor is not required to show that the employees at the bulk stations, including truck drivers, are employed in accordance with the standards of the act. (Bulk stations as the term is used herein are intermediate points of storage between a central distributing plant and service stations.)

[12 FR 2477, Apr. 17, 1947. Redesignated at 24 FR 10952, Dec. 30, 1959]

¹Not filed with the Office of the Federal Register.

²Refers to Rulings and Interpretation No. 3.

CHAPTER 51—COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

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PART 51-1—GENERAL

Sec.

51-1.1 Policy.

51-1.2 Mandatory source priorities.

51-1.3 Definitions.

AUTHORITY: 41 U.S.C. 46-48c.

SOURCE: 56 FR 48976, Sept. 26, 1991, unless otherwise noted.

§51-1.1 Policy.

(a) It is the policy of the Government to increase employment and training opportunities for persons who are blind or have other severe disabilities through the purchase of commodities and services from qualified nonprofit agencies employing persons who are blind or have other severe disabilities. The Committee for Purchase from People who are Blind or Severely Disabled (hereinafter the Committee) was established by the Javits-Wagner—O'Day Act, Public Law 92-28, 85 Stat. 77 (1971), as amended, 41 U.S.C. 46-48c (hereinafter the JWOD Act). The Committee is responsible for implementation of a comprehensive program designed to enforce this policy.

(b) It is the policy of the Committee to encourage all Federal entities and employees to provide the necessary support to ensure that the JWOD Act is implemented in an effective manner. This support includes purchase of products and services published on the Committee's Procurement List through appropriate channels from nonprofit agencies employing persons who are blind or have other severe disabilities designated by the Committee; recommendations to the Committee of new commodities and services suitable for addition to the Procurement List; and cooperation with the Committee and the central nonprofit agencies in the provision of such data as the Committee may decide is necessary to determine suitability for addition to the Procurement List.

[56 FR 48976, Sept. 26, 1991, as amended at 59 FR 16777, Apr. 8, 1994]

§51-1.2 Mandatory source priorities.

(a) The JWOD Act mandates that commodities or services on the Procurement List required by Government entities be procured, as prescribed in

this regulation, from a nonprofit agency employing persons who are blind or have other severe disabilities, at a price established by the Committee, if that commodity or service is available within the normal period required by that Government entity. Except as provided in paragraph (b) of this section, the JWOD Act has priority, under the provisions of 41 U.S.C. 48, over any other supplier of the Government's requirements for commodities and services on the Committee's Procurement List.

(b) Federal Prison Industries, Inc. has priority, under the provisions of 18 U.S.C. 4124, over nonprofit agencies employing persons who are blind or have other severe disabilities in furnishing commodities for sale to the Government. All or a portion of the Government's requirement for a commodity for which Federal Prison Industries, Inc. has exercised its priority may be added to the Procurement List. However, such addition is made with the understanding that procurement under the JWOD Act shall be limited to that portion of the Government's requirement for the commodity which is not available or not required to be procured from Federal Prison Industries, Inc.

(c) The JWOD Act requires the Committee to prescribe regulations providing that, in the purchase by the Government of commodities produced and offered for sale by qualified nonprofit agencies employing persons who are blind and nonprofit agencies employing persons who have other severe disabilities, priority shall be accorded to commodities produced and offered for sale by qualified nonprofit agencies for the blind. In approving the addition of commodities, to the Procurement List, the Committee accords priority to nonprofit agencies for the blind. Nonprofit agencies for the blind and nonprofit agencies employing persons with severe disabilities have equal priority for services.

§51-1.3 Definitions.

As used in this chapter:

AbilityOne Program means the program authorized by the JWOD Act to increase employment and training opportunities for persons who are blind or

have other severe disabilities through Government purchasing of commodities and services from nonprofit agencies employing these persons.

Agency and Federal agency mean *Entity of the Government*, as defined herein.

Blind means an individual or class of individuals whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle no greater than 20 degrees.

Central nonprofit agency means an agency organized under the laws of the United States or of any State, operated in the interest of the blind or persons with other severe disabilities, the net income of which does not incur in whole or in part to the benefit of any shareholder or other individual, and designated by the Committee to facilitate the distribution (by direct allocation, subcontract, or any other means) of orders of the Government for commodities and services on the Procurement List among nonprofit agencies employing persons who are blind or have other severe disabilities, to provide information required by the Committee to implement the JWOD Program, and to otherwise assist the Committee in administering these regulations as set forth herein by the Committee.

Committee means the Committee for Purchase from People who are Blind or Severely Disabled.

Contracting activity means any element of an entity of the Government that has responsibility for identifying and/or procuring Government requirements for commodities or services. Components of a contracting activity, such as a contracting office and an ordering office, are incorporated in this definition, which includes all offices within the definitions of "contracting activity," "contracting office," and "contract administration office" contained in the Federal Acquisition Regulation, 48 CFR 2.101.

Direct labor means all work required for preparation, processing, and packing of a commodity or work directly related to the performance of a service,

but not supervision, administration, inspection or shipping.

Fiscal year means the 12-month period beginning on October 1 of each year.

Government and Entity of the Government mean any entity of the legislative branch or the judicial branch, any executive agency, military department, Government corporation, or independent establishment, the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

Interested person means an individual or legal entity affected by a proposed addition of a commodity or service to the Procurement List or a deletion from it.

Military resale commodities means commodities on the Procurement List sold for the private, individual use of authorized patrons of Armed Forces commissaries and exchanges, or like activities of other Government departments and agencies.

Nonprofit agency (formerly workshop) means a nonprofit agency for the blind or a nonprofit agency employing persons with severe disabilities, as appropriate.

Other severely handicapped and severely handicapped individuals (hereinafter persons with severe disabilities) mean a person other than a blind person who has a severe physical or mental impairment (a residual, limiting condition resulting from an injury, disease, or congenital defect) which so limits the person's functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills) that the individual is unable to engage in normal competitive employment over an extended period of time.

(1) Capability for normal competitive employment shall be determined from information developed by an ongoing evaluation program conducted by or for the nonprofit agency and shall include as a minimum, a preadmission evaluation and a reevaluation at least annually of each individual's capability for normal competitive employment.

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(2) A person with a severe mental or physical impairment who is able to engage in normal competitive employment because the impairment has been overcome or the condition has been substantially corrected is not “other severely handicapped” within the meaning of the definition.

Participating nonprofit agency (formerly participating workshop) means any nonprofit agency which has been authorized by the Committee to furnish a commodity or service to the Government under the JWOD Act.

Procurement List means a list of commodities (including military resale commodities) and services which the Committee has determined to be suitable to be furnished to the Government by nonprofit agencies for the blind or nonprofit agencies employing persons with severe disabilities pursuant to the JWOD Act and these regulations.

Qualified nonprofit agency for other severely handicapped (hereinafter nonprofit agency employing persons with severe disabilities) (formerly workshop for other severely handicapped) means an agency organized under the laws of the United States or any State, operated in the interests of persons with severe disabilities who are not blind, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual; which complies with applicable occupational health and safety standards prescribed by the Secretary of Labor; and which in furnishing commodities and services (whether or not the commodities or services are procured under these regulations) during the fiscal year employs persons with severe disabilities (including blind) for not less than 75 percent of the work-hours of direct labor required to furnish such commodities or services.

Qualified nonprofit agency for the blind (hereinafter nonprofit agency for the blind) (formerly workshop for the blind) means an agency organized under the laws of the United States or of any State, operated in the interest of blind individuals, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual; which complies with applicable occupational health and safety standards prescribed

by the Secretary of Labor; and which in furnishing commodities and services (whether or not the commodities or services are procured under these regulations) during the fiscal year employs blind individuals for not less than 75 percent of the work-hours of direct labor required to furnish such commodities or services.

State means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any territory remaining under the jurisdiction of the Trust Territory of the Pacific Islands.

[56 FR 48976, Sept. 26, 1991, as amended at 59 FR 16777, Apr. 8, 1994; 71 FR 68493, Nov. 27, 2006]

PART 51-2—COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Sec.

51-2.1 Membership.

51-2.2 Powers and responsibilities.

51-2.3 Notice of proposed addition or deletion.

51-2.4 Determination of suitability.

51-2.5 Committee decision.

51-2.6 Reconsideration of Committee decision.

51-2.7 Fair market price.

51-2.8 Procurement list.

51-2.9 Oral presentations by interested persons at Committee meetings.

AUTHORITY: 41 U.S.C. 46-48c.

SOURCE: 56 FR 48977, Sept. 26, 1991, unless otherwise noted.

§51-2.1 Membership.

Under the JWOD Act, the Committee is composed of 15 members appointed by the President. There is one representative from each of the following departments or agencies of the Government: The Department of Agriculture, the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Education, the Department of Commerce, the Department of Justice, the Department of Labor, the Department of Veterans Affairs, and the General Services Administration. Four members are private citizens: One who is conversant with

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the problems incident to the employment of blind individuals; one who is conversant with the problems incident to the employment of persons with other severe disabilities; one who represents blind individuals employed in qualified nonprofit agencies for the blind; and one who represents persons with severe disabilities (other than blindness) employed in qualified nonprofit agencies employing persons with severe disabilities.

§51-2.2 Powers and responsibilities.

The Committee is responsible for carrying out the following functions in support of its mission of providing employment and training opportunities for persons who are blind or have other severe disabilities and, whenever possible, preparing those individuals to engage in competitive employment:

(a) Establish rules, regulations, and policies to assure effective implementation of the JWOD Act.

(b) Determine which commodities and services procured by the Federal Government are suitable to be furnished by qualified nonprofit agencies employing persons who are blind or have other severe disabilities and add those items to the Committee's Procurement List. Publish notices of addition to the Procurement List in the FEDERAL REGISTER. Disseminate information on Procurement List items to Federal agencies. Delete items no longer suitable to be furnished by nonprofit agencies. Authorize and deauthorize central nonprofit agencies and nonprofit agencies to accept orders from contracting activities for the furnishing of specific commodities and services on the Procurement List.

(c) Determine fair market prices for items added to the Procurement List and revise those prices in accordance with changing market conditions to assure that the prices established are reflective of the market.

(d) Monitor nonprofit agency compliance with Committee regulations and procedures.

(e) Inform Federal agencies about the AbilityOne Program and the statutory mandate that items on the Procurement List be purchased from qualified nonprofit agencies, and encourage and assist entities of the Federal Govern-

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ment to identify additional commodities and services that can be purchased from qualified nonprofit agencies. To the extent possible, monitor Federal agencies' compliance with JWOD requirements.

(f) Designate, set appropriate ceilings on fee paid to these central nonprofit agencies by nonprofit agencies selling items under the AbilityOne Program, and provide guidance to central nonprofit agencies engaged in facilitating the distribution of Government orders and helping State and private nonprofit agencies participate in the AbilityOne Program.

(g) Conduct a continuing study and evaluation of its activities under the JWOD Act for the purpose of assuring effective and efficient administration of the JWOD Act. The Committee may study, independently, or in cooperation with other public or nonprofit private agencies, problems relating to:

(1) The employment of the blind or individuals with other severe disabilities.

(2) The development and adaptation of production methods which would enable a greater utilization of these individuals.

(h) Provide technical assistance to the central nonprofit agencies and the nonprofit agencies to contribute to the successful implementation of the JWOD Act.

(i) Assure that nonprofit agencies employing persons who are blind will have priority over nonprofit agencies employing persons with severe disabilities in furnishing commodities.

[56 FR 48977, Sept. 26, 1991, as amended at 59 FR 59341, Nov. 16, 1994; 71 FR 68493, Nov. 27, 2006]

§51-2.3 Notice of proposed addition or deletion.

At least 30 days prior to the Committee's consideration of the addition or deletion of a commodity or service to or from the Procurement List, the Committee publishes a notice in the FEDERAL REGISTER announcing the proposed addition or deletion and providing interested persons an opportunity to submit written data or comments on the proposal. Interested persons submitting comments in bound form should also submit an unbound

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copy that is capable of being legibly photocopied.

[59 FR 59341, Nov. 16, 1994]

§51-2.4 Determination of suitability.

(a) For a commodity or service to be suitable for addition to the Procurement List, each of the following criteria must be satisfied:

(1) *Employment potential.* The proposed addition must demonstrate a potential to generate employment for persons who are blind or have other severe disabilities.

(2) *Nonprofit agency qualifications.* The nonprofit agency (or agencies) proposing to furnish the item must qualify as a nonprofit agency serving persons who are blind or have other severe disabilities, as set forth in part 51-4 of this chapter.

(3) *Capability.* The nonprofit agency (or agencies) desiring to furnish a commodity or service under the JWOD Program must satisfy the Committee as to the extent of the labor operations to be performed and that it will have the capability to meet Government quality standards and delivery schedules by the time it assumes responsibility for supplying the Government.

(4) *Level of impact on the current contractor for the commodity or service.* (i) In deciding whether or not a proposed addition to the Procurement List is likely to have a severe adverse impact on the current contractor for the specific commodity or service, the Committee gives particular attention to:

(A) The possible impact on the contractor's total sales, including the sales of affiliated companies and parent corporations. In addition, the Committee considers the effects of previous Committee actions.

(B) Whether that contractor has been a continuous supplier to the Government of the specific commodity or service proposed for addition and is, therefore, more dependent on the income from such sales to the Government.

(ii) If there is not a current contract for the commodity or service being proposed for addition to the Procurement List, the Committee may consider the most recent contractor to furnish the item to the Government as the

current contractor for the purpose of determining the level of impact.

(b) In determining the suitability of a commodity or service for addition to the Procurement List, the Committee also considers other information it deems pertinent, including comments on a proposal published in the FEDERAL REGISTER to add the commodity or service to the Procurement List and information submitted by Government personnel and interested persons. Because the Committee's authority to establish fair market prices is separate from its authority to determine the suitability of a commodity or service for addition to the Procurement List, the Committee does not consider comments on proposed fair market prices for commodities and services proposed for addition to the Procurement List to be pertinent to a suitability determination.

[56 FR 48977, Sept. 26, 1991, as amended at 59 FR 59341, Nov. 16, 1994; 62 FR 66529, Dec. 19, 1997]

§51-2.5 Committee decision.

The Committee considers the particular facts and circumstances in each case in determining if a commodity or service is suitable for addition to the Procurement List. When the Committee determines that a proposed addition is likely to have a severe adverse impact on a current contractor, it takes this fact into consideration in deciding not to add the commodity or service to the Procurement List, or to add only a portion of the Government requirement for the item. If the Committee decides to add a commodity or service in whole or in part to the Procurement List, that decision is announced in the FEDERAL REGISTER with a notice that includes information on the effective date of the addition.

[59 FR 59342, Nov. 16, 1994]

§51-2.6 Reconsideration of Committee decision.

(a) The Committee may reconsider its decision to add items to the Procurement List if it receives pertinent information which was not before it when it initially made the decision. Unless otherwise provided by the Committee, requests for reconsideration

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from interested persons must be received by the Committee within 60 days following the effective date of the addition in question. A request for reconsideration must include the specific facts believed by the interested person to justify a decision by the Committee to modify or reverse its earlier action.

(b) In reconsidering its decision, the Committee will balance the harm to the party requesting reconsideration if the item remains on the Procurement List against the harm which the nonprofit agency or its employees who are blind or have other severe disabilities would suffer if the item were deleted from the Procurement List. The Committee may also consider information bringing into question its conclusions on the suitability criteria on which it based its original decision as factors weighing toward a decision to delete the item, and information concerning possible harm to the Government and the JWOD Program as factors weighing toward confirmation of the original decision.

[56 FR 48977, Sept. 26, 1991, as amended at 59 FR 59342, Nov. 16, 1994]

§51-2.7 Fair market price.

(a) The Committee is responsible for determining fair market prices, and changes thereto, for commodities and services on the Procurement List. The Committee establishes an initial fair market price at the time a commodity or service is added to the Procurement List. This initial price is based on Committee procedures, which permit negotiations between the contracting activity and the nonprofit agency which will produce or provide the commodity or service to the Government, assisted by the appropriate central nonprofit agency. If agreed to by the negotiating parties, the initial price may be developed using other methodologies specified in Committee pricing procedures.

(b) Prices are revised in accordance with changing market conditions under Committee procedures, which include negotiations between contracting activities and producing nonprofit agencies, assisted by central nonprofit agencies, or the use of economic indices, changes in nonprofit agency costs, or other methodologies permitted under these procedures.

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(c) Recommendations for initial fair market prices, or changes thereto, shall be submitted jointly by the contracting activities and nonprofit agencies concerned to the appropriate central nonprofit agency. After review and analysis, the central nonprofit agency shall submit the recommended prices and methods by which prices shall be changed to the Committee, along with the information required by Committee pricing procedures to support each recommendation. The Committee will review the recommendations, revise the recommended prices where appropriate, and establish a fair market price, or change thereto, for each commodity or service which is the subject of a recommendation.

[64 FR 55842, Oct. 15, 1999]

§51-2.8 Procurement list.

(a) The Committee maintains a Procurement List which includes the commodities and services which shall be procured by Government departments and agencies under the JWOD Act from the nonprofit agency(ies) designated by the Committee. Copies of the Procurement List, together with information on procurement requirements and procedures, are available to contracting activities upon request.

(b) For commodities, including military resale commodities, the Procurement List identifies the name and national stock number or item designation for each commodity, and where appropriate, any limitation on the portion of the commodity which must be procured under the JWOD Act.

(c) For services, the Procurement List identifies the type of service to be furnished, the Government department or agency responsible for procuring the service, and, where appropriate, the activity or item to be serviced.

(d) Additions to and deletions from the Procurement List are published in the FEDERAL REGISTER as they are approved by the Committee.

§51-2.9 Oral presentations by interested persons at Committee meetings.

(a) Upon written request from an interested person, that person may, at the discretion of the Committee Chair,

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be permitted to appear before the Committee to present views orally. Generally, only those persons who have raised significant issues which, if valid, could influence the Committee's decision in the matter under consideration will be permitted to appear.

(b) When the Chair has approved the appearance before the Committee of an interested person who has made a written request:

(1) The name of the spokesperson and the names of any other persons planning to appear shall be provided to the Committee staff by telephone at least three working days before the meeting.

(2) In the absence of prior authorization by the Chair, only one person representing a particular agency or organization will be permitted to speak.

(3) Oral statements to the Committee and written material provided in conjunction with the oral statements shall be limited to issues addressed in written comments which have previously been submitted to the Committee as the result of notice of proposed rule-making in the FEDERAL REGISTER.

(4) Written material to be provided in conjunction with the oral presentation and an outline of the presentation shall be submitted to the Committee staff at least three working days before the meeting.

(c) The Committee may also invite other interested persons to make oral presentations at Committee meetings when it determines that these persons can provide information which will assist the Committee in making a decision on a proposed addition to the Procurement List. Terms of appearance of such persons shall be determined by the Chair.

PART 51-3—CENTRAL NONPROFIT AGENCIES

Sec.

51-3.1 General.

51-3.2 Responsibilities under the AbilityOne Program.

51-3.3 Assignment of commodity or service.

51-3.4 Distribution of orders.

51-3.5 Fees.

51-3.6 Reports to central nonprofit agencies.

AUTHORITY: 41 U.S.C. 46-48c.

SOURCE: 56 FR 48979, Sept. 26, 1991, unless otherwise noted.

§ 51-3.1 General.

Under the provisions of section 2(c) of the JWOD Act, the following are currently designated central nonprofit agencies:

(a) To represent nonprofit agencies for the blind: National Industries for the Blind.

(b) To represent nonprofit agencies employing persons with other severe disabilities: NISH.

§ 51-3.2 Responsibilities under the AbilityOne Program.

Each central nonprofit agency shall:

(a) Represent its participating nonprofit agencies in dealing with the Committee under the JWOD Act.

(b) Evaluate the qualifications and capabilities of its nonprofit agencies and provide the Committee with pertinent data concerning its nonprofit agencies, their status as qualified nonprofit agencies, their manufacturing or service capabilities, and other information concerning them required by the Committee.

(c) Obtain from Federal contracting activities such procurement information as is required by the Committee to:

(1) Determine the suitability of a commodity or service being recommended to the Committee for addition to the Procurement List; or

(2) Establish an initial fair market price for a commodity or service or make changes in the fair market price.

(d) Recommend to the Committee, with the supporting information required by Committee procedures, suitable commodities or services for procurement from its nonprofit agencies.

(e) Recommend to the Committee, with the supporting information required by Committee procedures, initial fair market prices for commodities or services proposed for addition to the Procurement List.

(f) Distribute within the policy guidelines of the Committee (by direct allocation, subcontract, or any other means) orders from Government activities among its nonprofit agencies.

(g) Maintain the necessary records and data on its nonprofit agencies to enable it to allocate orders equitably.

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(h) Oversee and assist its nonprofit agencies to insure contract compliance in furnishing a commodity or a service.

(i) As market conditions change, recommend price changes with appropriate justification for assigned commodities or services on the Procurement List.

(j) Monitor and assist its nonprofit agencies to meet the statutory and regulatory requirements to fully participate in the program. Conduct assistance visits with its nonprofits as necessary and provide the Committee with the results and recommendations of such visits.

(k) When authorized by the Committee, enter into contracts with Federal contracting activities for the furnishing of commodities or services provided by its nonprofit agencies.

(l) At the time designated by the Committee, submit a completed, original copy of the appropriate Initial Certification (Committee Form 401 or 402) for the nonprofit agency concerned. This requirement does not apply to a nonprofit agency that is already authorized to furnish a commodity or service under the JWOD Act.

(m) Review and forward to the Committee by December 1 of each year a completed original copy of the appropriate Annual Certification (Committee Form 403 or 404) for each of its participating nonprofit agencies covering the fiscal year ending the preceding September 30.

(n) Perform other JWOD administrative functions, including activities to increase Government and public awareness of the JWOD Act subject to the oversight of the Committee.

[56 FR 48979, Sept. 26, 1991, as amended at 59 FR 59342, Nov. 16, 1994; 62 FR 32237, June 13, 1997; 68 FR 53684, Sept. 12, 2003; 73 FR 28043, May 15, 2008]

§51-3.3 Assignment of commodity or service.

(a) The central nonprofit agencies shall determine by mutual agreement the assignment to one of them of a commodity or service for the purpose of evaluating its potential for possible future addition to the Procurement List, except that the Committee shall initially assign a commodity to National Industries for the Blind when

NISH has expressed an interest in the commodity and National Industries for the Blind has exercised the blind priority.

(b) NISH shall provide National Industries for the Blind with procurement information necessary for a decision to exercise or waive the blind priority when it requests a decision. National Industries for the Blind shall normally notify NISH of its decision within 30 days, but not later than 60 days after receipt of the procurement information, unless the two central nonprofit agencies agree to an extension of time for the decision. Disagreements on extensions shall be referred to the Committee for resolution.

(c) If National Industries for the Blind exercises the blind priority for a commodity, it shall immediately notify the Committee and NISH and shall submit to the Committee a proposal to add the commodity to the Procurement List within nine months of the notification, unless the Committee extends the assignment period because of delays beyond the control of National Industries for the Blind. Upon expiration of the assignment period, the Committee shall reassign the commodity to NISH.

(d) The central nonprofit agency assigned a commodity shall obtain a decision from Federal Prison Industries on the exercise or waiver of its priority and shall submit the procurement information required by Federal Prison Industries when it requests the decision. Federal Prison Industries shall normally notify the central nonprofit agency of its decision within 30 days, but not later than 60 days after receipt of the procurement information, unless it agrees with the central nonprofit agency on an extension of time for the decision. The central nonprofit agency shall refer a disagreement over an extension to the Committee for resolution with Federal Prison Industries.

(e) The central nonprofit agency shall provide the Committee the decision of Federal Prison Industries on the waiver or exercise of its priority when it requests the addition of the commodity to the Procurement List. NISH shall also provide the decision of

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National Industries for the Blind waiving its priority.

[59 FR 59342, Nov. 16, 1994]

§51-3.4 Distribution of orders.

Central nonprofit agencies shall distribute orders from the Government only to nonprofit agencies which the Committee has approved to furnish the specific commodity or service. When the Committee has approved two or more nonprofit agencies to furnish a specific commodity or service, the central nonprofit agency shall distribute orders among those nonprofit agencies in a fair and equitable manner.

[56 FR 48979, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991]

§51-3.5 Fees.

A central nonprofit agency may charge fees to nonprofit agencies for facilitating their participation in the AbilityOne Program. Fees shall be calculated based on nonprofit agency sales to the Government under the AbilityOne Program. Fees shall not exceed the fee limit approved by the Committee.

[56 FR 48979, Sept. 26, 1991, as amended at 71 FR 68494, Nov. 27, 2006]

§51-3.6 Reports to central nonprofit agencies.

Any information, other than that contained in the Annual Certification required by §51-4.3(a) of this chapter, which a central nonprofit agency requires its nonprofit agencies to submit on an annual basis, shall be requested separately from the Annual Certification. If the information is being sought in response to a request by the Committee, nonprofit agencies shall be advised of that fact and the central nonprofit agency shall, prior to distribution, provide to the Committee a copy of each form which it plans to use to obtain such information from its nonprofit agencies.

PART 51-4—NONPROFIT AGENCIES

Sec.

51-4.1 General.

51-4.2 Initial qualification.

51-4.3 Maintaining qualification.

51-4.4 Subcontracting.

51-4.5 Violations by nonprofit agencies.

AUTHORITY: 41 U.S.C. 46-48c.

SOURCE: 56 FR 48980, Sept. 26, 1991, unless otherwise noted.

§51-4.1 General.

To participate in the AbilityOne Program, a nonprofit agency shall be represented by the central nonprofit agency assigned by the Committee on the basis of the nonprofit agency's articles of incorporation and bylaws.

[56 FR 48980, Sept. 26, 1991, as amended at 71 FR 68494, Nov. 27, 2006]

§51-4.2 Initial qualification.

(a) To qualify for participation in the JWOD Program:

(1) A privately incorporated nonprofit agency shall submit to the Committee through its central nonprofit agency the following documents, transmitted by a letter signed by an officer of the corporation or chief executive:

(i) A legible copy (preferably a photocopy) of the articles of incorporation showing the date of filing and the signature of an appropriate State official.

(ii) A copy of the bylaws certified by an officer of the corporation.

(iii) If the articles of incorporation or bylaws do not include a statement to the effect that no part of the net income of the nonprofit agency may inure to the benefit of any shareholder or other individual, one of the following shall be submitted:

(A) A certified true copy of the State statute under which the nonprofit agency was incorporated which includes wording to the effect that no part of the net income of the nonprofit agency may inure to the benefit of any shareholder or other individual.

(B) A copy of a resolution approved by the governing body of the corporation, certified by an officer of the corporation, to the effect that no part of the net income of the nonprofit agency may inure to the benefit of any shareholder or other individual.

(2) A State-owned or State-operated nonprofit agency, or a nonprofit agency established or authorized by a State statute other than the State corporation laws and not privately incorporated, shall submit to the Committee through its central nonprofit agency

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the following documents, transmitted by a letter signed by an officer of the wholly-owned State corporation or an official of the agency that directs the operations of the nonprofit agency, as applicable:

(i) A certified true copy of the State statute establishing or authorizing the establishment of nonprofit agency(ies) for persons who are blind or have other severe disabilities.

(ii) In the case of a wholly-owned State corporation, a certified true copy of the corporation bylaws; and, in the case of a State or local government agency, a certified true copy of implementing regulations, operating procedures, notice of establishment of the nonprofit agency, or other similar documents.

(b) The Committee shall review the documents submitted and, if they are acceptable, notify the nonprofit agency by letter, with a copy to its central nonprofit agency, that the Committee has verified its nonprofit status under the JWOD Act.

(c) A nonprofit agency shall submit two completed copies of the appropriate Initial Certification (Committee Form 401 or 402) to its central nonprofit agency at the time designated by the Committee. This requirement does not apply if a nonprofit agency is already authorized to furnish a commodity or service under the JWOD Act.

[56 FR 48980, Sept. 26, 1991, as amended at 59 FR 59342, Nov. 16, 1994]

§51-4.3 Maintaining qualification.

(a) To maintain its qualification under the JWOD Act, each nonprofit agency authorized to furnish a commodity or a service shall continue to comply with the requirements of a "nonprofit agency for other severely handicapped" or a "nonprofit agency for the blind" as defined in §51-1.3 of this chapter. In addition, each such nonprofit agency must submit to its central nonprofit agency by November 1 of each year, two completed copies of the appropriate Annual Certification (Committee Form 403 or 404) covering the fiscal year ending the preceding September 30.

(b) In addition to paragraph (a) of this section, each nonprofit agency

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participating in the Ability One Program shall:

(1) Furnish commodities or services in strict accordance with Government orders.

(2) Comply with the applicable compensation, employment, and occupational health and safety standards prescribed by the Secretary of Labor, including procedures to encourage filling of vacancies within the nonprofit agency by promotion of qualified employees who are blind or have other severe disabilities.

(3) Comply with directives or requests issued by the Committee in furtherance of the objectives of the JWOD Act or its implementing regulations.

(4) Make its records available for review at any reasonable time to representatives of the Committee or the central nonprofit agency representing the nonprofit agency.

(5) Maintain records of direct labor hours performed in the nonprofit agency by each worker.

(6) Maintain a file for each blind individual performing direct labor which contains a written report reflecting visual acuity and field of vision of each eye, with best correction, signed by a person licensed to make such an evaluation, or a certification of blindness by a State or local governmental entity.

(7) Maintain in the file for each blind individual performing direct labor annual reviews of ability to engage in normal competitive employment. These reviews must be signed by an individual qualified by training and/or experience to make this determination.

(8) Maintain an ongoing placement program operated by or for the nonprofit agency to include liaison with appropriate community services such as the State employment service, employer groups and others. Those individuals determined capable and desirous of normal competitive employment shall be assisted in obtaining such employment.

(9) Upon receipt of payment by the Government for commodities or services furnished under the Ability One Program, pay to the central nonprofit agency a fee which meets the requirements of §51-3.5 of this chapter.

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(c) Each nonprofit agency employing persons with severe disabilities participating in the AbilityOne Program shall, in addition to the requirements of paragraphs (a) and (b) of this section, maintain in each individual with a severe disability's file:

(1) A written report signed by a licensed physician, psychiatrist, or qualified psychologist, reflecting the nature and extent of the disability or disabilities that cause such person to qualify as a person with a severe disability, or a certification of the disability or disabilities by a State or local governmental entity.

(2) Reports which state whether that individual is capable of engaging in normal competitive employment. These reports shall be signed by a person or persons qualified by training and experience to evaluate the work potential, interests, aptitudes, and abilities of persons with disabilities and shall normally consist of preadmission evaluations and reevaluations prepared at least annually. The file on individuals who have been in the nonprofit agency for less than two years shall contain the preadmission report and, where appropriate, the next annual reevaluation. The file on individuals who have been in the nonprofit agency for two or more years shall contain, as a minimum, the reports of the two most recent annual reevaluations.

(d) The information collection requirements of §51-4.2 and §51-4.3 and the recordkeeping requirements of §51-4.3 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96-511). The information collection requirements have been assigned the following OMB control numbers:

Committee form	OMB control No.
Committee form 401	3037-0004
Committee form 402	3037-0003
Committee form 403	3037-0001
Committee form 404	3037-0002

The recordkeeping requirements have been assigned OMB control number 3037-0005.

[56 FR 48980, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991, as amended at 59 FR 59343, Nov. 16, 1994; 62 FR 32237, June 13, 1997; 62 FR 66529, Dec. 19, 1997; 68 FR 53685, Sept. 12, 2003; 71 FR 68494, Nov. 27, 2006; 73 FR 28043, May 15, 2008]

§51-4.4 Subcontracting.

(a) Nonprofit agencies shall seek broad competition in the purchase of materials and components used in the commodities and services furnished to the Government under the JWOD Act. Nonprofit agencies shall inform the Committee, through their central nonprofit agency, before entering into multiyear contracts for materials or components used in the commodities and services furnished to the Government under the JWOD Act.

(b) Each nonprofit agency shall accomplish the maximum amount of subcontracting with other nonprofit agencies and small business concerns that the nonprofit agency finds to be consistent both with efficient performance in furnishing commodities or services under the JWOD Act and maximizing employment for persons who are blind or have other severe disabilities.

(c) Nonprofit agencies may subcontract a portion of the process for producing a commodity or providing a service on the Procurement List provided that the portion of the process retained by the prime nonprofit agency generates employment for persons who are blind or have other severe disabilities. Subcontracting intended to be a routine part of the production of a commodity or provision of a service shall be identified to the Committee at the time the commodity or service is proposed for addition to the Procurement List and any significant changes in the extent of subcontracting must be approved in advance by the Committee.

(d) A nonprofit agency may not subcontract the entire production process for all or a portion of an order without the Committee's prior approval.

[56 FR 48980, Sept. 26, 1991, as amended at 62 FR 66529, Dec. 19, 1997]

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§ 51-4.5 Violations by nonprofit agencies.

(a) Any alleged violations of these regulations by a nonprofit agency shall be investigated by the Committee which shall notify the nonprofit agency concerned and afford it an opportunity to submit a statement of facts and evidence. Pending a decision by the Committee, the central nonprofit agency concerned may be directed by the Committee to temporarily suspend allocations to the nonprofit agency.

(b) If a nonprofit agency fails to correct its violations of these regulations, the Committee, after affording the nonprofit agency an opportunity to address the Committee on the matter, may terminate the nonprofit agency's eligibility to participate in the JWOD Program.

[56 FR 48979, Sept. 26, 1991, as amended at 59 FR 59343, Nov. 16, 1994; 73 FR 28043, May 15, 2008]

PART 51-5—CONTRACTING REQUIREMENTS

Sec.

- 51-5.1 General.
- 51-5.2 Mandatory source requirement.
- 51-5.3 Scope of requirement.
- 51-5.4 Purchase exceptions.
- 51-5.5 Prices.
- 51-5.6 Shipping.
- 51-5.7 Payments.
- 51-5.8 Violations by entities of the Government.

AUTHORITY: 41 U.S.C. 46-48C.

SOURCE: 56 FR 48981, Sept. 26, 1991, unless otherwise noted.

§ 51-5.1 General.

(a) Contracting activities are encouraged to assist the Committee and the central nonprofit agencies in identifying suitable commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities so that the Committee can attain its objective of increasing employment and training opportunities for individuals who are blind or have other severe disabilities. For items which appear to be suitable to be furnished by nonprofit agencies, the contracting activity should refer the candidate commodities and services to the Committee or a central non-

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profit agency. If a contracting activity decides to procure one or more commodities which are similar to a commodity or commodities on the Procurement List, the contracting activity should refer the commodities it intends to procure to the Committee or a central nonprofit agency.

(b) Contracting activities shall provide the Committee and designated central nonprofit agencies with information needed to enable the Committee to determine whether a commodity or service is suitable to be furnished by a nonprofit agency. For commodities, information such as the latest solicitation and amendments, bid abstracts, procurement history, estimated annual usage quantities, and anticipated date of next solicitation issuance and opening may be needed. For services, similar information including the statement of work and applicable wage determination may be required. In order to assist in evaluating the suitability of an Office of Management and Budget Circular No. A-76 conversion, contracting activities should provide a copy of the draft statement of work and applicable wage determination to the central nonprofit agency upon its request.

§ 51-5.2 Mandatory source requirement.

(a) Nonprofit agencies designated by the Committee are mandatory sources of supply for all entities of the Government for commodities and services included on the Procurement List, as provided in § 51-1.2 of this chapter.

(b) Purchases of commodities on the Procurement List by entities of the Government shall be made from sources authorized by the Committee. These sources may include nonprofit agencies, central nonprofit agencies, Government central supply agencies such as the Defense Logistics Agency and the General Services Administration, and certain commercial distributors. Identification of the authorized sources for a particular commodity may be obtained from the central nonprofit agencies at the addresses noted in § 51-6.2 of this chapter.

(c) Contracting activities shall require other persons providing commodities which are on the Procurement

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List to entities of the Government by contract to order these commodities from the sources authorized by the Committee.

(d) Procedures for obtaining military resale commodities are contained in §51-6.4 of this chapter.

(e) Contracting activities procuring services which have included within them services on the Procurement List shall require their contractors for the larger service requirement to procure the included Procurement List services from nonprofit agencies designated by the Committee.

[56 FR 48981, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991, as amended at 59 FR 59343, Nov. 16, 1994; 60 FR 54200, Oct. 20, 1995; 63 FR 16439, Apr. 3, 1998]

§51-5.3 Scope of requirement.

(a) When a commodity is included on the Procurement List, the mandatory source requirement covers the National Stock Number or item designation listed and commodities that are essentially the same as the listed item. In some instances, only a portion of the Government requirement for a National Stock Number or item designation is specified by the Procurement List. Where geographic areas, quantities, percentages or specific supply locations for a commodity are listed, the mandatory provisions of the JWOD Act apply only to the portion or portions of the commodity indicated by the Procurement List.

(b) For services, where an agency and location or geographic area are listed on the Procurement List, only the service for the location or geographic area listed must be procured from the nonprofit agency, except as provided in §51-6.14 of this chapter. Where no location or geographic area is indicated by the Procurement List, it is mandatory that the total Government requirement for that service be procured from a nonprofit agency.

(c) When a commodity or service is added to the Procurement List, the addition does not affect contracts for the commodity or service awarded prior to the effective date of the Procurement

List addition or options exercised under those contracts.

[56 FR 48981, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991, as amended at 59 FR 59343, Nov. 16, 1994; 63 FR 16439, Apr. 3, 1998]

§51-5.4 Purchase exceptions.

(a) A central nonprofit agency will normally grant a purchase exception for a contracting activity to procure from commercial sources commodities or services on the Procurement List when both of the following conditions are met:

(1) The central nonprofit agency or its nonprofit agency(ies) cannot furnish a commodity or service within the period specified, and

(2) The commodity or service is available from commercial sources in the quantities needed and significantly sooner than it will be available from the nonprofit agency(ies).

(b) The central nonprofit agency may grant a purchase exception when the quantity involved is not sufficient to be furnished economically by the nonprofit agency(ies).

(c) The Committee may also grant a purchase exception for the reasons set forth in paragraphs (a) and (b) of this section.

(d) The central nonprofit agency shall obtain the approval of the Committee before granting a purchase exception when the value of the procurement exceeds the simplified acquisition threshold set forth in the Federal Acquisition Streamlining Act of 1994 or any subsequent amendments thereto.

(e) When the central nonprofit agency grants a purchase exception under the above conditions, it shall do so promptly and shall specify the quantities and delivery period covered by the exception.

(f) When a purchase exception is granted under paragraph (a) of this section:

(1) Contracting activities shall initiate purchase actions within 15 days following the date of the purchase exception. The deadline may be extended by the central nonprofit agency with, in cases of procurements exceeding the simplified acquisition threshold, the concurrence of the Committee.

(2) Contracting activities shall furnish a copy to the solicitation to the

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appropriate central nonprofit agency at the time it is issued, and a copy of the annotated bid abstract upon awarding of the commercial contract.

(g) Any decision by a central nonprofit agency regarding a purchase exception may be appealed to the Committee by the contracting activity.

[56 FR 48981, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991, as amended at 59 FR 59343, Nov. 16, 1994]

§51-5.5 Prices.

(a) The prices for items on the Procurement List are fair market prices established by the Committee under authority of the Javits-Wagner-O'Day Act (41 U.S.C. 47(b)).

(b) Prices for commodities include applicable packaging, packing, and marking. Prices include transportation to point of delivery as specified in §51-5.6.

(c) Price changes for commodities and services shall usually apply to orders received by the nonprofit agency on or after the effective date of the change. In special cases, after considering the views of the contracting activity, the Committee may make price changes applicable to orders received by the nonprofit agency prior to the effective date of the change.

(d) To assist the Committee in revising the fair market prices for services on the Procurement List, upon request from the central nonprofit agency, the contracting activity should take the following actions:

(1) Submit to the Department of Labor in a timely fashion a request for wage determination rate.

(2) Provide a copy of the new wage determination rate or the Department of Labor document stating that the wage determination rate is unchanged to the central nonprofit agency at least 60 days before the beginning of the new service period.

(3) Provide to the central nonprofit agency at least 90 days before the beginning of the new service period a copy of the statement of work applicable to the new service period.

(e) If a contracting activity desires packing, packaging, or marking of products other than the standard pack or as provided in the Procurement List,

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any difference in cost shall be negotiated with the nonprofit agency.

[56 FR 48981, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991, as amended at 59 FR 59343, Nov. 16, 1994; 64 FR 55842, Oct. 15, 1999]

§51-5.6 Shipping.

(a) Except as provided in paragraph (b) of this section, commodities are sold to the Government on an "F.O.B. destination" basis, with delivery being accomplished when the shipment reaches the facility designated by the contracting activity. Time of delivery is when the shipment is released by the carrier and accepted by the contracting activity or its agent. In this delivery method, the nonprofit agency will normally use commercial bills of lading and will be responsible for any loss or damage to the goods occurring before the commodities reach the designated delivery point. The nonprofit agency will prepare and distribute commercial bills of lading, furnish delivery schedules, designate the carriers, and pay all shipping charges to specified delivery points.

(b) The Committee may determine that certain commodities are to be sold to the Government on an "F.O.B. origin" basis, with delivery being accomplished when a shipment is placed aboard the vehicle of the initial carrier. Time of delivery is when the shipment is released to and accepted by the initial carrier. In this delivery method, the nonprofit agency will normally use Government bills of lading, and responsibility for loss or damage to the goods while in transit passes to the Government at the time the initial carrier accepts a shipment. If the contracting activity fails to furnish a Government bill of lading promptly, such failure shall be considered an excusable delay in delivery.

[64 FR 55842, Oct. 15, 1999]

§51-5.7 Payments.

Payments for products or services of persons who are blind or have other severe disabilities shall be made within 30 days after shipment or receipt of a proper invoice or voucher.

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§51-5.8 Violations by entities of the Government.

Any alleged violations of the JWOD Act or these regulations by entities of the Government shall be investigated by the Committee, which shall notify the entity and afford it an opportunity to submit a statement.

[56 FR 48981, Sept. 26, 1991, as amended at 59 FR 59343, Nov. 16, 1994]

PART 51-6—PROCUREMENT PROCEDURES

Sec.

- 51-6.1 Direct order process.
- 51-6.2 Allocation process.
- 51-6.3 Long-term procurements.
- 51-6.4 Military resale commodities.
- 51-6.5 Adjustment and cancellation of orders.
- 51-6.6 Request for waiver of specification requirement.
- 51-6.7 Orders in excess of nonprofit agency capability.
- 51-6.8 Deletion of items from the Procurement List.
- 51-6.9 Correspondence and inquiries.
- 51-6.10 Quality of merchandise.
- 51-6.11 Quality complaints.
- 51-6.12 Specification changes and similar actions.
- 51-6.13 Replacement and similar commodities.
- 51-6.14 Replacement services.
- 51-6.15 Disputes.

AUTHORITY: 41 U.S.C. 46-48c.

SOURCE: 56 FR 48983, Sept. 26, 1991, unless otherwise noted.

§51-6.1 Direct order process.

(a) Once a commodity or service is added to the Procurement List, the central nonprofit agency may authorize the contracting activity to issue orders directly to a nonprofit agency without requesting an allocation for each order. This procedure is known as the direct order process.

(b) In these cases, the central nonprofit agency shall specify the normal leadtime required for orders transmitted directly to the nonprofit agencies. This method shall be used whenever possible since it eliminates double handling and decreases the time required for processing orders.

(c) An order for commodities or services shall provide leadtime sufficient for purchase of materials, production

or preparation, and delivery or completion.

(d) The central nonprofit agency shall keep the contracting activity informed of any changes in leadtime experienced by its nonprofit agencies in order to keep to a minimum requests for extensions once an order is placed. Where, due to unusual conditions, an order does not provide sufficient leadtime, the central nonprofit agency or the individual nonprofit agency may request an extension of delivery or completion date which should be granted, if feasible. If extension of delivery or completion date is not feasible, the contracting activity shall:

(1) Notify the central nonprofit agency and the individual nonprofit agency(ies) as appropriate.

(2) Request the central nonprofit agency to reallocate or to issue a purchase exception authorizing procurement from commercial sources as provided in §51-5.4 of this chapter.

(e) The contracting activity shall promptly provide to the central nonprofit agency concerned a copy of all orders issued to nonprofit agencies.

(f) The written direct order authorization remains valid until it is revoked by the central nonprofit agency.

§51-6.2 Allocation process.

(a) In those cases where a direct order authorization has not been issued as described in §51-6.1, the contracting activity shall submit written requests for allocation to the appropriate central nonprofit agency indicated by the Procurement List at the address listed below:

Agency	Agency symbol
National Industries for the Blind, 1901 North Beauregard Street, Suite 200, Alexandria, Virginia 22311-1727.	NIB
NISH, 2235 Cedar Lane, Vienna, Virginia 22182-5200.	NISH

(b) Requests for allocations shall contain, as a minimum:

(1) For commodities. Name, stock number, latest specification, quantity, unit price, and place and time of delivery.

(2) For services. Type and location of service required, latest specification,

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work to be performed, estimated volume, and time for completion.

(c) Contracting activities shall request allocations in sufficient time for the central nonprofit agency to reply, for the order(s) to be placed, and for the nonprofit agencies to furnish the commodity or service (see paragraph (i) of this section).

(d) When a commodity on the Procurement List also appears on the Federal Prison Industries' "Schedule of Products," the contracting activity shall obtain clearance from the Federal Prison Industries prior to requesting an allocation or placing an order directly to the nonprofit agency(ies).

(e) The central nonprofit agency shall make allocations to the appropriate nonprofit agency(ies) upon receipt of a request from the contracting activity and instruct that the orders be forwarded to the central nonprofit agency or direct to the nonprofit agency(ies) with a copy provided promptly to the central nonprofit agency.

(f) Central nonprofit agencies shall reply promptly to requests for allocation. When a request for allocation provides a delivery schedule (based on established lead times and time required for processing the allocation request) which cannot be met, the central nonprofit agency shall request a revision, which the contracting activity shall grant, if feasible, or the central nonprofit agency shall issue a purchase exception authorizing procurement from commercial sources as provided in §51-5.4 of this chapter.

(g) An allocation is not an obligation to supply a commodity or service, or an obligation for the contracting activity to issue an order. Nonprofit agencies are not authorized to commence production until receipt of an order.

(h) Upon receipt of an allocation, the contracting activity shall promptly submit an order to the appropriate central nonprofit agency or designated nonprofit agency(ies). Where this cannot be done promptly, the contracting activity shall advise the central nonprofit agency and the nonprofit agency(ies) immediately.

(i) An order for commodities or services shall provide leadtime sufficient for purchase of materials, production

or preparation, and delivery or completion.

(j) The Central nonprofit agency shall keep the contracting activity informed of any changes in leadtime experienced by its nonprofit agency(ies) in order to keep to a minimum requests for extensions once an order is placed. Where, due to unusual conditions, an order does not provide sufficient leadtime, the central nonprofit agency or nonprofit agency may request an extension of delivery or completion date which should be granted, if feasible. If extension of delivery or completion date is not feasible, the contracting activity shall:

(1) Notify the central nonprofit agency and nonprofit agency(ies) as appropriate.

(2) Request the central nonprofit agency to reallocate or to issue a purchase exception authorizing procurement from commercial sources as provided in §51-5.4 of this chapter.

(k) In those instances where the central nonprofit agency is the prime contractor rather than the nonprofit agency, the central nonprofit agency will designate the nonprofit agency(ies) authorized by the Committee to furnish definite quantities of commodities or specific services upon receipt of an order from the contracting activity.

[56 FR 48983, Sept. 26, 1991, as amended at 59 FR 59343, Nov. 16, 1994]

§51-6.3 Long-term procurements.

(a) Contracting activities are encouraged to investigate long-term ordering agreements for commodities listed on the Procurement List to level off demand, thereby helping ensure stability of employment and development of job skills for persons who are blind or have other severe disabilities.

(b) Contracting activities are encouraged to use the longest contract term available by law to their agencies for contracts for commodities and services under the AbilityOne Program, in order to minimize the time and expense devoted to formation and renewal of these contracts.

[56 FR 48983, Sept. 26, 1991, as amended at 62 FR 32237, June 13, 1997; 71 FR 68494, Nov. 27, 2006]

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§ 51-6.4 Military resale commodities.

(a) Purchase procedures for ordering military resale commodities are available from the central nonprofit agencies. Authorized resale outlets (military commissary stores, Armed Forces exchanges and like activities of other Government departments and agencies) shall request the central nonprofit agency responsible for the military resale commodity being ordered to designate the nonprofit agency or its agent to which the outlets shall forward orders.

(b) Authorized resale outlets shall stock military resale commodities in as broad a range as practicable. Authorized resale outlets may stock commercial items comparable to military resale commodities they stock, except that military commissary stores shall stock military resale commodities in the 300-800-, 900-, 1000-, 1100-, and 10000-(10000-10999) series exclusively, unless an exception has been granted on an individual store basis for the stocking of comparable commercial items for which there is a significant customer demand.

(c) The Defense Commissary Agency shall, after consultation with the Committee:

(1) Establish mandatory lists of military resale commodities to be stocked in commissary stores.

(2) Require the stocking in commissary stores of military resale commodities in the 0- (0-99), 200-, 300-, 400-, 500-, 600-, 700-, 800-, 900-, 1000-, 1100-, 1200- (1200-9999), and 10000- (10000-10999) series in as broad a range as is practicable.

(3) Issue guidance requiring commissary store personnel to maximize sales potential of military resale commodities.

(4) Establish policies and procedures which reserve to its agency headquarters the authority to grant exceptions to the exclusive stocking of 300-, 800-, 900-, 1000-, 1100-, and 10000- (10000-10999) series military resale commodities.

(d) The Defense Commissary Agency shall provide the Committee a copy of each directive which relates to the stocking of military resale commodities in commissary stores, including exceptions authorizing the stocking of

commercial items in competition with 300-, 800-, 900-, 1000-, 1100-, and 10000-(10000-10999) series military resale commodities.

(e) The prices of military resale commodities include delivery to destination or, in the case of destinations overseas, to designated depots at ports of embarkation. Zone pricing is used for delivery to Alaska and Hawaii.

[56 FR 48983, Sept. 26, 1991, as amended at 59 FR 59343, Nov. 16, 1994; 62 FR 32237, June 13, 1997; 71 FR 67312, Nov. 21, 2006]

§ 51-6.5 Adjustment and cancellation of orders.

When the central nonprofit agency or an individual nonprofit agency fails to comply with the terms of a Government order, the contracting activity shall make every effort to negotiate an adjustment before taking action to cancel the order. When a Government order is canceled for failure to comply with its terms, the central nonprofit agency shall be notified, and, if practicable, requested to reallocate the order. The central nonprofit agency shall notify the Committee of any cancellation of an order and the reasons for that cancellation.

§ 51-6.6 Request for waiver of specification requirement.

(a) Nonprofit agencies and central nonprofit agencies are encouraged to recommend changes to specification requirements or request waivers where there are opportunities to provide equal or improved products at a lower cost to the Government.

(b) A nonprofit agency shall not request a waiver of a specification requirement except when it is not possible to obtain the material meeting the specification or when other requirements contained in the specification cannot be met.

(c) Requests for waiver of specification shall be transmitted by the nonprofit agency to its central nonprofit agency.

(d) The central nonprofit agency shall review the request and the specification to determine if the request is valid and shall submit to the contracting activity only those requests which it has determined are necessary

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to enable the nonprofit agency to furnish the item.

(e) The central nonprofit agency request for waiver shall be transmitted in writing to the contracting activity. In addition, a copy of the request shall be transmitted to the Committee, annotated to include a statement concerning the impact on the cost of producing the item if the waiver is approved.

§51-6.7 Orders in excess of nonprofit agency capability.

(a) Nonprofit agencies are expected to furnish commodities on the Procurement List within the time frames specified by the Government. The nonprofit agency must have the necessary production facilities to meet normal fluctuations in demand.

(b) Nonprofit agencies shall take those actions necessary to ensure that they can ship commodities within the time frames specified by the Government. In instances where the nonprofit agency determines that it cannot ship the commodity in the quantities specified by the required shipping date, it shall notify the central nonprofit agency and the contracting activity. The central nonprofit agency shall request a revision of the shipping schedule which the contracting activity should grant, if feasible, or the central nonprofit agency shall issue a purchase exception authorizing procurement from commercial sources as provided in §51-5.4 of this chapter.

§51-6.8 Deletion of items from the Procurement List.

(a) When a central nonprofit agency decides to request that the Committee delete a commodity or service from the Procurement List, it shall notify the Committee staff immediately. Before reaching a decision to request a deletion of an item from the Procurement List, the central nonprofit agency shall determine that none of its nonprofit agencies is capable and desirous of furnishing the commodity or service involved.

(b) Except in cases where the Government is no longer procuring the item in question, the Committee shall, prior to deleting an item from the Procurement List, determine that none of the non-

profit agencies of the other central nonprofit agency is desirous and capable of furnishing the commodity or service involved.

(c) Nonprofit agencies will normally be required to complete production of any orders for commodities on hand regardless of the decision to delete the item. Nonprofit agencies shall obtain concurrence of the contracting activity and the Committee prior to returning a purchase order to the contracting activity.

(d) For services, a nonprofit agency shall notify the contracting activity of its intent to discontinue performance of the service 90 days in advance of the termination date to enable the contracting activity to assure continuity of the service after the nonprofit agency's discontinuance.

(e) The Committee may delete an item from the Procurement List without a request from a central nonprofit agency if the Committee determines that none of the nonprofit agencies participating in the AbilityOne Program are capable and desirous of furnishing the commodity or service to the Government, or if the Committee decides that the commodity or service is no longer suitable for procurement from nonprofit agencies employing people who are blind or have other severe disabilities. In considering such an action, the Committee will consult with the appropriate central nonprofit agency, the nonprofit agency or agencies involved, and the contracting activity.

[56 FR 48983, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991, as amended at 59 FR 59344, Nov. 16, 1994; 71 FR 68494, Nov. 27, 2006]

§51-6.9 Correspondence and inquiries.

Routine contracting activity correspondence or inquiries concerning deliveries of commodities being shipped from or performance of services by nonprofit agencies employing persons who are blind or have other severe disabilities shall be with the nonprofit agency involved. Major problems shall be referred to the appropriate central nonprofit agency. In those instances where the problem cannot be resolved by the central nonprofit agency and the contracting activity involved, the

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contracting activity or central nonprofit agency shall notify the Committee of the problem so that action can be taken by the Committee to resolve it.

§ 51-6.10 Quality of merchandise.

(a) Commodities furnished under Government specification by nonprofit agencies employing persons who are blind or have other severe disabilities shall be manufactured in strict compliance with such specifications. Where no specifications exist, commodities furnished shall be of a quality equal to or higher than similar items available on the commercial market. Commodities shall be inspected utilizing nationally recognized test methods and procedures for sampling and inspection.

(b) Services furnished by nonprofit agencies employing persons who are blind or have other severe disabilities shall be performed in accordance with Government specifications and standards. Where no Government specifications and standards exist, the services shall be performed in accordance with commercial practices.

§ 51-6.11 Quality complaints.

(a) When the quality of a commodity received is not considered satisfactory by the using activity, the activity shall take the following actions as appropriate:

(1) For commodities received from Defense Logistics Agency supply centers, General Services Administration supply distribution facilities, Department of Veterans Affairs distribution division or other central stockage depots, or specifically authorized supply source, notify the supplying agency in writing in accordance with that agency's procedures. The supplying agency shall, in turn, provide copies of the notice to the nonprofit agency involved and its central nonprofit agency.

(2) For commodities received directly from nonprofit agencies employing persons who are blind or have other severe disabilities, address complaints to the nonprofit agency involved with a copy to the central nonprofit agency with which it is affiliated.

(b) When the quality of a service is not considered satisfactory by the con-

tracting activity, it shall address complaints to the nonprofit agency involved with a copy to the central nonprofit agency with which it is affiliated.

§ 51-6.12 Specification changes and similar actions.

(a) Contracting activities shall notify the nonprofit agency or agencies authorized to furnish a commodity on the Procurement List and the central nonprofit agency concerned of any changes to the specification or other description of the commodity.

(b) When a Government entity is changing the specification or description of a commodity on the Procurement List, including a change that involves the assignment of a new national stock number or item designation, the office assigned responsibility for the action shall obtain the comments of the Committee and the central nonprofit agency concerned on the proposed change and shall notify the nonprofit agency and the central nonprofit agency concerned at least 90 days prior to placing an order for a commodity covered by the new specification or description.

(c) For services on the Procurement List, the contracting activity shall notify the nonprofit agency furnishing the service and the central nonprofit agency concerned at least 90 days prior to the date that any changes in the statement of work or other conditions of performance will be required, including assumption of performance of the service by the contracting activity.

(d) If an emergency makes it impossible for a contracting activity to give the 90-day notice required by paragraphs (b) and (c) of this section, the contracting activity shall inform the nonprofit agency and the central nonprofit agency concerned of the reasons it cannot meet the 90-day notice requirement when it places the order or change notice.

(e) Nonprofit agencies shall recommend changes in specifications, item descriptions, and statements of work that will improve the commodity or service being provided, reduce costs,

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or improve overall value to the Government. Contracting activities shall respond promptly to these recommendations and work with the nonprofit agencies to implement them when appropriate.

[56 FR 48983, Sept. 26, 1991, as amended at 59 FR 59344, Nov. 16, 1994; 62 FR 66529, Dec. 19, 1998]

§ 51-6.13 Replacement and similar commodities.

(a) When a commodity on the Procurement List is replaced by another commodity which has not been recently procured, and a nonprofit agency can furnish the replacement commodity in accordance with the Government's quality standards and delivery schedules, the replacement commodity is automatically considered to be on the Procurement List and shall be procured from the nonprofit agency designated by the Committee at the fair market price the Committee has set for the replacement commodity. The commodity being replaced shall continue to be included on the Procurement List until there is no longer a Government requirement for that commodity.

(b) If contracting activities desire to procure additional sizes, colors, or other variations of a commodity after the commodity is added to the Procurement List, and these similar commodities have not recently been procured, these commodities are also automatically considered to be on the Procurement List.

(c) In accordance with § 51-5.3 of this chapter, contracting activities are not permitted to purchase commercial items that are essentially the same as commodities on the Procurement List.

[59 FR 59344, Nov. 16, 1994]

§ 51-6.14 Replacement services.

If a service is on the Procurement List to meet the needs of a Government entity at a specific location and the entity moves to another location, the service at the new location is automatically considered to be on the Procurement List if a qualified nonprofit agency is available to provide the service at the new location, unless the service at that location is already being provided by another contractor.

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If the service at the new location is being provided by another contractor, the service will not be on the Procurement List unless the Committee adds it as prescribed in Part 51-2 of this chapter. If another Government entity moves into the old location, the service at that location will remain on the Procurement List to meet the needs of the new Government entity.

[63 FR 16439, Apr. 3, 1998]

§ 51-6.15 Disputes.

Disputes between a nonprofit agency and a contracting activity arising out of matters covered by parts 51-5 and 51-6 of this chapter shall be resolved, where possible, by the contracting activity and the nonprofit agency, with assistance from the appropriate central nonprofit agency. Disputes which cannot be resolved by these parties shall be referred to the Committee for resolution.

[62 FR 66529, Dec. 19, 1997. Redesignated at 63 FR 16439, Apr. 3, 1998.]

PART 51-7—PROCEDURES FOR ENVIRONMENTAL ANALYSIS

Sec.

51-7.1 Purpose and scope.

51-7.2 Early involvement in private, State, and local activities requiring Federal approval.

51-7.3 Ensuring environmental documents are actually considered in agency determinations.

51-7.4 Typical classes of action.

51-7.5 Environmental information.

AUTHORITY: 42 U.S.C. 4321 et seq.

SOURCE: 56 FR 48986, Sept. 26, 1991, unless otherwise noted.

§ 51-7.1 Purpose and scope.

(a) *Purpose.* This part implements the National Environmental Policy Act of 1969 (NEPA) and provides for the implementation of those provisions identified in 40 CFR 1507.3(b) of the regulations issued by the Council on Environmental Quality (CEQ) (40 CFR parts 1500-1508) published pursuant to NEPA.

(b) *Scope.* This part applies to all actions of the Committee for Purchase from Persons who are Blind or Severely

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Disabled which may affect environmental quality in the United States.

[56 FR 48986, Sept. 26, 1991, as amended at 59 FR 16777, Apr. 8, 1994]

§51-7.2 Early involvement in private, State, and local activities requiring Federal approval.

(a) 40 CFR 1501.2(d) requires agencies to provide for early involvement in actions which, while planned by private applicants or other non-Federal entities, require some sort of Federal approval. Pursuant to the JWOD Act (41 U.S.C. 46-48c), the Committee for Purchase from People who are Blind or Severely Disabled makes the determination as to which qualified nonprofit agency serving persons who are blind or have other severe disabilities will furnish designated products and services to the Government.

(b) To implement the requirements of 40 CFR 1501.2(d) with respect to these actions, the Committee staff shall consult as required with other appropriate parties to initiate and coordinate the necessary environmental analysis. The Executive Director shall determine on the basis of information submitted by private agencies and other non-Federal entities or generated by the Committee whether the proposed action is one that normally does not require an environmental assessment or environmental impact statement (EIS) as set forth in §51-7.4, or is one that requires an environmental assessment as set forth in 40 CFR 1501.4.

(c) To facilitate compliance with these requirements, private agencies and other non-Federal entities are expected to:

(1) Contact the Committee staff as early as possible in the planning process for guidance on the scope and level of environmental information required to be submitted in support of their request;

(2) Conduct any studies which are deemed necessary and appropriate by the Committee to determine the impact of the proposed action on the human environment;

(3) Consult with appropriate Federal, regional, State and local agencies and other potentially interested parties during preliminary planning stages to

ensure that all environmental factors are identified;

(4) Submit applications for all Federal, regional, State and local approvals as early as possible in the planning process;

(5) Notify the Committee as early as possible of all other Federal, regional, State, local and Indian tribe actions required for project completion so that the Committee may coordinate all Federal environmental reviews; and

(6) Notify the Committee of all known parties potentially affected by or interested in the proposed action.

[56 FR 48986, Sept. 26, 1991, as amended at 59 FR 16777, Apr. 8, 1994]

§51-7.3 Ensuring environmental documents are actually considered in agency determinations.

(a) 40 CFR 1505.1 of the NEPA regulations contains requirements to ensure adequate consideration of environmental documents in agency decision-making. To implement these requirements, the Committee staff shall:

(1) Consider all relevant environmental documents in evaluating proposals for agency action;

(2) Ensure that all relevant environmental documents, comments and responses accompany the proposal through the agency review processes;

(3) Consider only those alternatives discussed in the relevant environmental documents when evaluating proposals for agency action; and

(4) Where an EIS has been prepared, consider the specific alternative analysis in the EIS when evaluating the proposal which is the subject of the EIS.

(b) For each of the Committee's actions authorized by the JWOD Act, the following list identifies the point at which the NEPA process begins, the point at which it ends, and the key agency official or office required to consider the relevant environmental documents as a part of their decision-making:

(1) Action: Request.

(2) Start of NEPA process: Upon receipt of request.

(3) Completion of NEPA process: When the deciding official reviews the proposal and makes a determination.

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(4) Key official or office required to consider environmental document: When a positive determination is made under §51-7.2(b), the applicant in conjunction with the Committee staff will prepare the necessary papers.

§51-7.4 Typical classes of action.

(a) 40 CFR 1507.3(b)(2) in conjunction with 40 CFR 1508.4 requires agencies to establish three typical classes of action for similar treatment under NEPA. These typical classes of action are set forth below:

(1) Actions normally requiring EIS: None.

(2) Actions normally requiring assessments but not necessarily EISs: Requests for actions for which determinations under §51-7.2(b) are found to be affirmative.

(3) Actions normally not requiring assessments or EISs: Request for actions by nonprofit agencies through the central nonprofit agencies to add a commodity or service to the Committee's Procurement List.

(b) The Committee shall independently determine, by referring to 40 CFR 1508.27, whether an EIS or an environmental assessment is required where:

(1) A proposal for agency action is not covered by one of the typical classes of action above; or

(2) For actions which are covered, but where the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

§51-7.5 Environmental information.

Interested parties may contact the Executive Director at (703) 603-7740 for information regarding the Committee's compliance with NEPA.

[56 FR 48986, Sept. 26, 1991, as amended at 59 FR 16777, Apr. 8, 1994]

PART 51-8—PUBLIC AVAILABILITY OF AGENCY MATERIALS

Sec.

51-8.1 Purpose.

51-8.2 Scope.

51-8.3 Definitions.

51-8.4 Availability of materials.

51-8.5 Requests for records.

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51-8.7 Committee response to requests for records.

51-8.8 Business information.

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51-8.11 Extensions of time.

51-8.12 Fee schedule.

51-8.13 Fees charged by category of requester.

51-8.14 Fee waivers and reductions.

51-8.15 Collection of fees and charges.

51-8.16 Preservation of records.

AUTHORITY: 5 U.S.C. 552.

SOURCE: 54 FR 15189, Apr. 17, 1989, unless otherwise noted. Redesignated at 56 FR 48983, Sept. 26, 1991.

§51-8.1 Purpose.

These regulations implement the provisions of the "Freedom of Information Act," 5 U.S.C. 552. They establish procedures under which the public may inspect and obtain copies of material maintained by the Committee, provide for administrative appeal of initial determinations to deny requests for material, and prescribe fees to be charged by the Committee to recover search, review, and duplication costs.

[59 FR 59344, Nov. 16, 1994]

§51-8.2 Scope.

(a) These regulations shall apply to all final determinations made by the Committee, including all objections; and to any other Committee records reasonably described and requested by a person in accordance with these regulations—except to the extent that such material is exempt in accordance with paragraph (b) of this section. Where a request does not reasonably describe the requested information, the requester will be asked to provide more specific information.

(b) Requests for inspection and copies shall not be granted with respect to matters that are:

(1) Related to records:

(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and

(ii) In fact properly classified pursuant to such Executive Order;

(2) Related solely to the internal personnel rules and practices of the Committee;

(3) Specifically exempted from disclosure by statute;

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(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Committee;

(6) Personnel, medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution, which furnished information on a confidential basis and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operation, or condition of reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps concerning wells.

(c) Whenever a request is made which involves access to records described in paragraph (b)(7)(i) of this section and:

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that:

(i) The subject of the investigation or proceeding is not aware of its pendency, and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, then the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(d) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(e) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in paragraph (b)(1) of this section, the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

§51-8.3 Definitions.

As used in this part:

(a) The term *Act* means the Freedom of Information Act (5 U.S.C. 552), as amended.

(b) The term *Chairperson* means the Chairperson of the Committee for Purchase From People Who Are Blind or Severely Disabled.

(c) The term *Executive Director* means the Executive Director of the Committee for Purchase from People who are Blind or Severely Disabled.

(d) The term *exempt materials* means those materials described in §51-8.2(b).

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(e) The term *non-exempt materials* refers to all materials described in §51-8.2(a), except *exempt materials* included in §51-8.2(b).

(f) The term *duplication* refers to the process of making a copy of a document necessary to respond to a request. Such copies can take the form of paper copy, audio-visual materials, or machine readable materials (e.g., magnetic tape or disk), among others.

(g) The term *search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents.

(h) The term *review* refers to the process of examining documents located in response to a request that is for a commercial use to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

[54 FR 15189, Apr. 17, 1989. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 59344, Nov. 16, 1994]

§51-8.4 Availability of materials.

Material described in 5 U.S.C. 552(a)(2) shall be available for inspection during normal business hours at the Committee's offices, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259. An individual who intends to visit the Committee offices to inspect this material shall make an appointment with the Executive Director at least one week in advance, except when the Committee has provided notification to the individual that the material is available for inspection in the Committee offices, in which case an appointment must be made at least 24 hours in advance.

[59 FR 59344, Nov. 16, 1994, as amended at 63 FR 16440, Apr. 3, 1998; 65 FR 35287, June 2, 2000]

§51-8.5 Requests for records.

(a) Requests to obtain copies of any material maintained by the Committee must be submitted in writing to the

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Executive Director at the Committee's offices, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259. The requester may in his or her petition ask for a fee waiver if there is likely to be a charge for the requested information. All requests for records shall be deemed to have been made pursuant to the FOIA, regardless of whether the Act is specifically mentioned. Failure to submit a request in accordance with these procedures may delay the processing of the request.

(b) A request must reasonably describe the records to enable agency personnel to locate them with reasonable effort. Where possible, a requester should supply specific information regarding dates, titles, and other identification which will help to identify the records.

(c) If the Committee determines that a request does not reasonably describe the records, it shall inform the requester of this fact and extend to the requester an opportunity to clarify the request or to confer promptly with knowledgeable agency personnel to attempt to identify the records he or she is seeking. The "date of receipt" in such instances shall be the date of receipt of the amended or clarified request.

(d) Nothing in this part shall be interpreted to preclude the Committee from honoring an oral request for information, but, if the requester is dissatisfied with the response, the Committee official involved shall advise the requester to submit a written request in accordance with paragraph (a) of this section. The "date of receipt" of such a request shall be the date of receipt of the written request. For recordkeeping purposes, the Committee in responding to an oral request for information may ask the requester to confirm the oral request in writing.

[54 FR 15189, Apr. 17, 1989. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 59345, Nov. 16, 1994; 63 FR 16440, Apr. 3, 1998; 65 FR 35287, June 2, 2000]

§51-8.6 Aggregating requests.

When the Committee reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into

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a series of requests for the purpose of evading the assessment of fees, the Committee may aggregate any such requests and charge accordingly. Elements to be considered in determining whether a belief would be reasonable include the time period in which the requests have occurred and the subject matter involved.

§ 51-8.7 Committee response to requests for records.

(a) An initial determination whether, and to what extent, to grant each request for records or a fee waiver shall be made by the Executive Director within 10 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of that request. The person making the request shall be notified as soon as the determination is made.

(b) In making an initial determination whether and to what extent requested information will be released, the Committee shall first consider whether the material requested is of a type described in § 51-8.2(a); if it is, the request shall be granted unless the material is exempted by § 51-8.2(b). If the material requested is not a type described in § 51-8.2(a), or is the subject of one or more exemptions, the request may be denied.

(c) If a determination is made to grant a request, the relevant material shall be furnished as soon as possible following the determination to grant the request, and after payment of the fee specified in § 51-8.12 when required, except that copies of less than 10 pages of material requested in person ordinarily will be furnished immediately following the determination to grant the request.

(d) Where portions of the requested material are exempt under § 51-8.2(b), and are reasonably segregable from the remainder of the material, those portions shall be excised from the materials disclosed.

(e) If a determination is made to deny a request, or a portion thereof, the notification shall include a statement of the reasons for such action, shall set forth the name and position of the person responsible for the denial, and shall advise the requester of the right, and the procedures required

under § 51-8.10 to appeal the denial to the Chairperson.

(f) The Committee will require prepayment of fees for search, review, and reproduction which are likely to exceed \$250.00. When the anticipated total fee exceeds \$250.00, the requester will receive notice to prepay and at the same time will be given an opportunity to modify his or her request to reduce the fee. The Committee will also inform the requester that fees for search time will be charged even if the search proves unsuccessful. The Committee will not start processing a request until payment is received.

(g) Whenever duplication fees or search fees are anticipated to exceed \$25.00, but not more than \$250.00 and the requester has not indicated, in advance, a willingness to pay fees as high as those anticipated, the Committee will notify the requester of the amount of the anticipated fee. Similarly, where an extensive and therefore costly successful search is anticipated, the Committee will notify requesters of the anticipated fees. The Committee will not start processing the request until assurance of payment is received.

(h) Photocopies and directives furnished to the public are restricted to one copy of each page.

[54 FR 15189, Apr. 17, 1989. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 59345, Nov. 16, 1994]

§ 51-8.8 Business information.

(a) When, in responding to an FOIA request, the Committee cannot readily determine whether the information obtained from a person is privileged or confidential business information or when a submitter has labeled information as proprietary at the time of submission, it shall:

(1) Obtain and consider the views of the submitter of the information and provide the submitter at least 10 working days to object to any decision to disclose the information and to provide reasons for the objection;

(2) Provide business information submitters with notice of any determination to disclose such records, to which the submitter has objected to disclosure, 10 working days prior to the disclosure date, and the reasons for which

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its disclosure objection is not sustained;

(3) Notify business information submitters promptly of all instances in which FOIA requesters are bringing suit seeking to compel disclosure of submitted information.

(b) The submitter, in responding to a request under paragraph (a)(1) of this section, must explain fully all grounds upon which disclosure is opposed. For example, if the submitter maintains that disclosure is likely to cause substantial harm to its competitive position, the submitter must explain how disclosure would cause such harm.

(c) When a central nonprofit agency has submitted business information on behalf of a workshop, the workshop shall be considered to be the "business information submitter" for the purposes of this section.

§51-8.9 Records of other agencies.

(a) When the Committee receives a request to make available current records that are the primary responsibility of another agency, the Committee will refer the request to the agency concerned for appropriate action.

(b) The Committee will notify the requestor of the referral in paragraph (a) of this section and include the name and address of the office to which the request was referred.

§51-8.10 Appeals.

(a) An appeal to the Chairperson of any denial, in whole or in part, of a request for access to and copies of material may be made by submission of a written request for reconsideration. Such requests shall state the specific reasons for reconsideration that address directly the grounds upon which the denial was based. Requests must be addressed to the Chairperson at the Committee offices and must be received within 30 calendar days of the requester's receipt of the Committee's initial denial.

(b) The Chairperson shall make a determination with respect to any appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of the request for reconsideration. The person making such a

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request shall immediately be notified by mail of the determination.

(c) If the initial denial is reversed by the Chairperson, any material with which the reversal is concerned shall be made available in accordance with §51-8.7(b).

(d) If the denial is upheld, in whole or in part, the Chairperson shall include in the notification a statement of the requester's right of judicial review under 5 U.S.C. 552(a)(4), and the name and position of the person responsible for the denial.

[54 FR 15189, Apr. 17, 1989. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 59345, Nov. 16, 1994]

§51-8.11 Extensions of time.

(a) Whenever unusual circumstances exist, such as those set forth in paragraph (b) of this section, the times within which determinations must be made by the Executive Director on requests for access (10 working days), and by the Chairperson on requests for reconsideration (20 working days), may be extended by written notice to the requester for a time not to exceed an aggregate of 30 working days. The notice shall set forth the reasons for such extension, and the date on which a determination is expected to be made. Extensions of time shall be utilized only to the extent reasonably necessary to the proper processing of the particular request.

(b) As used in this section, "unusual circumstances" may mean:

(1) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are the subject of a single request;

(2) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request; or

(3) The need to obtain and consider the views of a business information submitter under §51-8.8.

[54 FR 15189, Apr. 17, 1989. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 59345, Nov. 16, 1994]

§51-8.12 Fee schedule.

(a) This schedule sets forth fees to be charged for processing requests for

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records under the FOIA. No higher fees or charges in addition to those provided for in this schedule may be charged a party requesting records under FOIA.

(b) Subject to the criteria set forth in § 51-8.13, fees may be assessed under FOIA on all requests involving document search, duplication, and review. Fees may also be charged in situations involving special service to requests, such as certifying that records requested are true copies, or sending records by special methods such as express mail, etc.

(c) Instances in which fees may not be charged are as follows:

(1) No charge shall be made for the first 100 pages of duplicated information (8½"×14" or smaller-size paper), or the first two hours of manual search time, or the first two minutes of computer search time, except on requests seeking documents for a commercial use, as specified in § 51-8.13;

(2) Also, no charge shall be made—even to commercial use requesters—if the cost of collecting a fee would be equal to or greater than the fee itself;

(3) In addition, fees shall not be charged for time spent by an agency employee in resolving legal or policy issues, or in monitoring a requester's inspection of agency records;

(4) Documents shall also be furnished without charge when members of the public provide their own copying equipment, in which case no copying fee will be charged (although search and review fees may still be assessed).

(d) Fees for records and related services are as follows:

(1) The fee for photocopies of pages 8½"×14" or smaller shall be \$0.20 for each page;

(2) The fee for photocopies larger than 8½"×14" shall be \$0.50 per linear foot of the longest side of the copy;

(3) The fee for other forms of duplicated information, such as microfilm, audio-visual materials, or machine-readable documentation (*i.e.*, magnetic tape or disk) shall be the actual direct cost of producing the document(s);

(4) Manual searches shall be charged at the salary rate of the employee conducting the search, plus 16 percent of the employee's basic pay.

(e) Computer searches and services shall be charged at the rate of \$22.00 per minute. The \$22.00-per-minute rate includes the cost of operating the central processing unit (CPU), and the computer operator's salary. When the services of a computer programmer or a computer program analyst are required in connection with an FOIA request, the fee for those services shall be \$16.00 and \$20.00 per hour, respectively.

(f) Charges for unsuccessful searches, or searches which fail to locate records or which locate records which are exempt from disclosure, shall be assessed at the same fee rate as searches which result in disclosure of records.

(g) The fee for providing review services shall be the hourly salary rate (*i.e.*, basic pay plus 16 percent) of the employee conducting the review to determine whether any information is exempt from mandatory disclosure.

§ 51-8.13 Fees charged by category of requester.

(a) Under the FOIA, as amended, there are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each category.

(b) Commercial use requesters. For commercial use requesters, the Committee shall assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents referenced in § 51-8.12(c)(1). The Committee may charge for the cost of searching for and reviewing records for commercial use requesters even if there is ultimately no disclosure of records.

(1) A commercial use requester is defined as one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(2) In determining whether a requester properly belongs in this category the Committee must determine

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whether the requester will put the documents to a commercial use. Where the Committee has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Committee may seek additional clarification from the requester.

(c) Educational and non-commercial scientific institution requesters. Fees for this category of requesters shall be limited to the cost of providing duplication service alone, minus the charge for the first 100 reproduced pages. No charge shall be made for search or review services. To qualify for this category, requesters must show that the request is being made as authorized by and under the auspices of an eligible institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly research (if the request is from a non-commercial scientific institution).

(1) The term “educational institution” refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(2) The term “non-commercial scientific institution” refers to an institution that is not operated on a “commercial” basis, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(d) Requesters who are representatives of the news media—Fees for this category of requesters shall also be limited to the cost of providing duplication service alone, minus the charge for the first 100 reproduced pages. No charge shall be made for providing search for review services. Requests in this category must not be made for a commercial use.

(1) The term “representative of the news media” refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.

(2) The term “news” means information that is about current events or

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that would be of current interest to the public.

(3) Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals which disseminate news and who make their products available for purchase or subscription by the general public.

(4) “Freelance” journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

(e) All other requesters. Fees for requesters who do not fit into any of the above categories shall be assessed for the full reasonable direct cost of searching for and duplicating documents that are responsive to a request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge.

§51-8.14 Fee waivers and reductions.

The Committee will waive or reduce fees on requests for information if disclosure of the information is deemed to be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and is not primarily in the commercial interest of the requester.

(a) In determining when fees shall be waived or reduced, the Committee will consider the following six factors:

(1) The subject of the request, *i.e.*, whether the subject of the requested records concerns “the operations or activities of the Government;”

(2) The informative value of the information to be disclosed, *i.e.*, whether the disclosure is “likely to contribute” to an understanding of Government operations or activities;

(3) The contribution to an understanding of the subject by the general public likely to result from disclosure, *i.e.*, whether disclosure of the requested information will contribute to “public understanding”;

(4) The significance of the contribution to public understanding, *i.e.*,

whether the disclosure is likely to contribute “significantly” to public understanding of Government operations or activities;

(5) The existence and magnitude of a commercial interest, *i.e.*, whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so,

(6) The primary interest in disclosure, *i.e.*, whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily in the commercial interest of the requester.”

(b) The Committee may waive or reduce fees associated with a request for disclosure regardless of whether a waiver or reduction has been requested if the Committee determines that disclosure will primarily benefit the general public.

(c) Fees shall be waived in all circumstances where the amount of the fee is \$10 or less as the cost of collection would be greater than the fee. This minimum shall be applied separately to each Committee response when it is necessary for the Committee to make more than one response to a request for records.

[54 FR 15189, Apr. 17, 1989. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 59345, Nov. 16, 1994]

§ 51-8.15 Collection of fees and charges.

(a) Except when prepayment is required, payments shall be collected to the fullest extent possible at the time the requested materials are furnished. Payments shall be made by requesters within 30 days of the date of the billing.

(b) Payments shall be made by check, draft, or money order made payable to the Treasury of the United States.

(c) In instances where a requester has previously failed to pay a fee, the Committee may require the requester to pay the full amount owed, plus any applicable interest as provided below, as well as the full estimated fee associated with any new request before it begins to process the new or subsequent request.

(d) On requests that result in fees being assessed, interest will be charged on an unpaid bill starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in section 3717 of Title 31 United States Code, and will accrue from the date of the billing.

(e) In attempting to collect fees levied under FOIA, the Committee will abide by the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365) in disclosing information to consumer reporting agencies and in the use of collection agencies, where appropriate, to encourage payment.

§ 51-8.16 Preservation of records.

The Committee shall preserve all correspondence relating to the requests it receives under this part, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to Title 44 United States Code, and to the General Records Schedule. Records shall not be destroyed while they are the subject of a pending request, appeal, or lawsuit under the Act.

PART 51-9—PRIVACY ACT RULES

Subpart 51-9.1—General Policy

- Sec.
- 51-9.101 Maintenance of records.
- 51-9.101-1 Collection and use.
- 51-9.101-2 Standards of accuracy.
- 51-9.101-3 Content of systems of records.
- 51-9.101-4 Rules of conduct.
- 51-9.101-5 Safeguarding systems of records.
- 51-9.102 Availability of records.
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Subpart 51-9.2—Disclosure of Records

- 51-9.201 Conditions of disclosure.
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- 51-9.301 Notification.
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- 51-9.304 Fees.

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- 51-9.304-1 Records available without charge.
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Subpart 51-9.4—Requests To Amend Records

- 51-9.401 Submission of requests to amend records.
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- 51-9.501 Reporting requirement.
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Subpart 51-9.6—Exceptions [Reserved]

Subpart 51-9.7—Rules of Conduct for Disclosure of Information About an Individual

- 51-9.701 Committee rules of conduct.

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 40 FR 51168, Nov. 3, 1975, unless otherwise noted. Redesignated at 56 FR 48983, Sept. 26, 1991.

Subpart 51-9.1—General Policy

§51-9.101 Maintenance of records.

§51-9.101-1 Collection and use.

Any information used in whole or in part in making a determination about an individual's rights, benefits, or privileges under the Committee programs, shall, to the extent practicable, be collected directly from the subject individual. At the time information is collected, the individual must be informed of the authority for collecting such information, whether providing the information is mandatory or voluntary, the purposes for which the information will be used, the routine uses as published in the FEDERAL REGISTER, and the effects on the individual, if any, of not providing the information. The information collected shall

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be used only for the intended purpose or permission for additional use will be obtained from the subject individual.

§51-9.101-2 Standards of accuracy.

The Executive Director shall ensure that all records which are used by the agency to make determinations about any individual are maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual. Upon petition by an individual, the Executive Director shall provide the individual with the opportunity to review his records, and to request amendment of a portion which the individual believes is not accurate, relevant, timely or complete. Prior to dissemination of records about any individual to any person or to another agency, exclusive of disclosure pursuant to the Freedom of Information Act, the Executive Director shall make reasonable effort to ensure that such records are accurate, complete, timely, and relevant.

§51-9.101-3 Content of systems of records.

The Executive Director shall maintain in records only such information about an individual as is relevant and necessary to accomplish an agency purpose required by statute or executive order. Such records shall not contain any information describing how any individual exercises rights guaranteed by the First Amendment unless specifically authorized by statute, by the subject individual, or is pertinent to and within the scope of an authorized law enforcement activity. For these purposes, First Amendment rights include, but are not limited to, religious and political beliefs, freedom of speech, the press, assembly, and freedom to petition.

§51-9.101-4 Rules of conduct.

Any employee of the Committee involved in the design, development, operation or maintenance of any system of records, or in maintaining any record, shall review the provisions of 5 U.S.C. 552a and these regulations, and shall conduct himself accordingly with the rules of conduct concerning the

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protection of personal information outlined in 41 CFR 51-9.7, Disclosure of Information about an Individual.

§ 51-9.101-5 Safeguarding systems of records.

The Executive Director shall ensure that appropriate administrative, technical and physical safeguards are established to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.

§ 51-9.102 Availability of records.

Committee records pertaining to an individual shall be made available to the subject individual to the greatest extent possible. Disclosures of records to other than the subject individual will be made only in accordance with Subpart 51-9.2 of this part.

§ 51-9.102-1 Specific exemptions.

Systems of records maintained by the Committee which have been exempted from certain requirements of the Privacy Act are designated in Subpart 51-9.6 of this part. An individual shall have access to all exempted records containing information about him under procedures outlined in Subpart 51-9.3 of this part. Upon request, an individual shall receive an accounting of any disclosure of information about him.

Subpart 51-9.2—Disclosure of Records

§ 51-9.201 Conditions of disclosure.

No Committee member or employee of the Committee shall disclose any record to any person or to another agency without the express written consent of the subject individual unless the disclosure is:

(a) To Committee members or employees who have a need for the information in the official performance of their duties.

(b) Required under the provisions of the Freedom of Information Act.

(c) For a routine use as published in the annual notice in the FEDERAL REGISTER.

(d) To the Bureau of Census for uses pursuant to Title 13.

(e) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record and the record is to be transferred in a form that is not individually identifiable. The written statement should include as a minimum:

(1) A statement of the purpose for requesting the records, and

(2) Certification that the records will be used only for statistical purposes.

These written statements shall be maintained as records. In addition to stripping, personally identifying information from records released for statistical purpose, the Committee will ensure that the identity of the individual cannot reasonably be deducted by combining various statistical records.

(f) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value.

(g) To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought.

(h) To a person showing compelling circumstances affecting the health and safety of an individual (not necessarily the individual to whom the record pertains). Upon such disclosure, a notification of such shall be sent to the last known address of the individual.

(i) To either House of Congress or to a subcommittee or committee (joint or of either House, to the extent that the

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subject matter falls within their jurisdiction).

(j) To the Comptroller General, or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office, or

(k) Pursuant to the order of the court of competent jurisdiction.

§51-9.202 Accounting of disclosures.

(a) Except for disclosures made pursuant to paragraphs (a) and (b) of §51-9.201 of this part, an accurate accounting of each disclosure will be made and retained for five years after the disclosure or for the life of the record, whichever is longer. The accounting will include the date, nature, and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made.

(b) The accounting will be recorded and maintained in any manner the Executive Director determines is satisfactory for the purposes of constructing a listing of all disclosures, and for providing a cross reference to the justification or basis upon which the disclosure was made, including written documentation required when records are released for statistical or law enforcement purposes and any written consents provided by the individual.

(c) Except for disclosures made to agencies or instrumentalities in law enforcement activities in accordance with §51-9.201(e)(2) or for disclosures made from systems exempted from this requirement of the Act as outlined in subpart 51-9.6 of this part, the accounting of disclosures will be made available to the individual upon request. Procedures for requesting access to the accounting are outlined in subpart 51-9.3 of this part.

Subpart 51-9.3—Individual Access to Records

§51-9.301 Notification.

Any individual who wishes to determine if a system of records maintained by the Committee contains a record pertaining to him should direct a request to the Executive Director at the address indicated in the public notice describing the system of records which has been published in the FEDERAL

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REGISTER. The request should display clearly the legend "Privacy Act Request" both on the face of the request letter and on the face of the envelope. The request letter should contain the complete name and identifying number of the system as published in the FEDERAL REGISTER; the full name, address, and telephone number of the subject individual; a brief description of the nature, time, place and circumstances of the individual's association with the Committee and any other information which the individual believes would facilitate the Executive Director's determination whether the individual's name is included in the system of records. The Executive Director shall answer or acknowledge the request within ten working days.

§51-9.302 Times, places and requirements for access requests.

Records will be available for authorized access during normal business hours at the offices where the records are located. A requester should be prepared to identify himself through production of a driver's license, student or employee identification card, or other identification acceptable to the Executive Director. When the disclosure of records to the wrong individual would result in substantial harm, embarrassment, inconvenience, or unfairness to the subject individual, the Executive Director may require a notarized statement of identity. The Executive Director shall ensure that such times, places, and requirements for identification are not excessive and do not restrict individual access unduly.

§51-9.303 Access procedures.

§51-9.303-1 Form of requests.

(a) An individual must request access to his record in writing. The Executive Director shall accept by telephone only general inquiries for information regarding systems of records or procedures.

(b) A written request should be directed to the Executive Director as listed in the public notice describing the system of records. The individual should display clearly on the face of the request letter and on the face of the envelope the legend "Privacy Act

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Request", and include the complete name and identifying number of the system as published in the FEDERAL REGISTER; the full name, address, the telephone number of the individual; a brief description of the nature, time, place and circumstances of the individual's association with the Committee; and any other information which the individual believes would facilitate the Executive Director's search for the record.

(c) An individual who wishes to have a person of his choosing accompany him in reviewing a record must sign a statement authorizing the disclosure of his record in the presence of another individual, if so requested by the Executive Director. An individual who intends to visit the Committee office in order to review a record should make an appointment with the Executive Director at least one week in advance.

§ 51-9.303-2 Special requirements for medical/psychological records.

(a) The Executive Director may require an individual who requests access to his medical or psychological record to designate a physician of his choice to whom he may disclose the individual's record if in the opinion of the Executive Director, disclosure directly to the individual might be harmful.

(b) The Executive Director shall mark records which should not be disclosed directly to the subject individual and shall inform an individual requesting such records of the requirement to designate a physician to whom the records can be disclosed.

§ 51-9.303-3 Granting access.

(a) Upon receipt of a request for access to non-exempt records, the Executive Director shall make such records available to the individual, or shall acknowledge the request within ten working days. The acknowledgment shall indicate when the Executive Director will make the record available.

(b) If the Executive Director anticipates more than ten days in making a record available he also shall include in the acknowledgement specific reasons for the delay.

(c) If an individual's request for access does not contain sufficient information to permit the Executive Direc-

tor to locate the record, the Executive Director shall request additional information from the individual and shall have ten working days following receipt of the additional information in which to make the record available, or to acknowledge receipt of the request and indicate when the record will be available. In no case shall more information be requested from the individual than that contained in the pertinent system of records.

(d) The Executive Director, at his discretion, either shall permit an individual to examine the original of the record, or shall provide the individual with a copy of the record. Fees shall be charged only for copies requested by the individual and not for copies provided to the individual for convenience of the agency.

(e) An individual may request to pick up a record in person or receive it by mail, directed to the name and address provided by the individual in his request. The Executive Director shall not make a record available to a third party for delivery to the subject individual, except in the case of medical records outlined in § 51-9.303-2.

(f) The Executive Director shall maintain in an individual's record an accounting of disclosures to the individual's documenting compliance with the request.

(g) The procedures for access to an accounting of disclosures is identical to the procedure for access to a record as set forth in this section.

§ 51-9.303-4 Denials of access.

(a) The Executive Director may deny any individual access to his record only on the grounds that the Committee has published rules in the FEDERAL REGISTER exempting the pertinent system of records from the access requirement.

(b) Upon receipt of a request for access to an exempt system, the Executive Director shall prepare a letter denying access. The letter of denial shall contain a justification for denial of access which includes appropriate citation to the exemption provisions of these rules or other FEDERAL REGISTER notice exempting the system.

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§51-9.304 Fees.

§51-9.304-1 Records available without charge.

The Executive Director shall make one copy of a record available to an employee without charge, and may waive the fee requirement for any other individual requesting records if the cost of collecting the fee is an unduly large part of, or greater than, the fee, or when furnishing the record without charge conforms to generally established business custom or is in the public interest.

§51-9.304-2 Records available at a fee.

The Executive Director shall provide one copy of a record to the individual at a fee prescribed in §51-9.304-5. A reasonable number of additional copies will be provided for the applicable fee where reproduction services are not readily available.

§51-9.304-3 Prepayment of fees over \$25.

When the Executive Director determines that the anticipated total fee is likely to exceed \$25, he shall notify the individual that he must prepay the anticipated fee prior to making the records available. The Committee will remit the excess paid by the individual or bill the individual for an additional amount according to variations between the final fee charged and the amount prepaid.

§51-9.304-4 Form of payment.

Payment shall be by check or money order payable to the Committee for Purchase from People who are Blind or Severely Disabled and shall be addressed to the Executive Director.

[40 FR 51168, Nov. 3, 1975, as amended at 59 FR 16777, Apr. 8, 1994]

§51-9.304-5 Reproduction fee schedule.

(a) The fee for reproducing a copy of a record (by routine electrostatic copying) up to and including material 8½×14 inches shall be \$0.10 per page.

(b) The fee for reproducing a copy of a record over 8½×14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of re-

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producing the records through Government or commercial sources.

Subpart 51-9.4—Requests To Amend Records

§51-9.401 Submission of requests to amend records.

(a) An individual who desires to amend any record or information pertaining to him should direct a written request to the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

(b) A request should bear the legend “Privacy Act—Request to Amend Record” prominently marked on both the face of the request letter and the envelope.

(5 U.S.C. 552a)

[40 FR 51168, Nov. 3, 1975. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 16777, Apr. 8, 1994; 63 FR 16440, Apr. 3, 1998; 65 FR 35287, June 2, 2000]

§51-9.402 Review of requests to amend records.

(a) Upon receipt of a request to amend a record, the responsible official, whenever practicable shall complete the review and advise the individual of the results within ten working days. If a determination cannot be made within ten working days, the Executive Director, within ten working days, shall send the individual a written acknowledgment of receipt of the request including a description of the request and the date when the requester may expect to be advised of action taken on the request. Except in unusual circumstances, the Executive Director shall complete the review within 30 working days. In unusual circumstances, causing delay beyond the 30 day limit, the Executive Director shall inform the individual in writing of the cause of delay, the actions taken to review the record, and the date the Executive Director anticipates the review to be complete.

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(b) When reviewing a record in response to a request to amend, the Executive Director shall assess the accuracy, relevance, timeliness, and completeness of the record to ensure fairness to the individual in any determination made on the basis of the record. With respect to a request to delete information, the Executive Director also shall review the request and record to determine whether the information is relevant and necessary to accomplish an agency purpose required to be accomplished by law or Executive Order.

§ 51-9.403 Approval of requests to amend.

If the Executive Director agrees to amend a record, he promptly shall make the necessary corrections to the record and shall send a copy of the corrected record to the individual. Where an accounting of disclosure has been maintained, he shall advise all previous recipients of the record of the fact that a correction was made of/and the substance of the correction. Where practicable, the Executive Director shall send a copy of the corrected record to previous recipients.

§ 51-9.404 Refusal of request to amend.

(a) The Executive Director, or any official acting for him, shall have the authority to issue an initial refusal of a request to amend a record within his custody and shall be responsible for the initial adverse agency determination.

(b) If the Executive Director, after reviewing the request to amend a record, determines not to amend the record, he promptly shall advise the requester in writing of the determination. The refusal letter (1) shall state the reasons for refusal, (2) shall state the requester's right to seek a review of the initial determination, and (3) shall state the procedures for requesting such review.

§ 51-9.405 Request of review of refusal to amend a record.

(a) An individual who disagrees with the refusal to amend may appeal that refusal with the Committee. An individual should address a request for review of a refusal to amend any record,

exclusive of a personnel record of a current Committee employee to the Chairperson, Committee for Purchase from People who are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

(b) A request to review must be in writing and should include a copy of the initial request and refusal to amend. The request to review should bear the legend "Privacy Act—Request for Review of Refusal to Amend" on both the face of the letter and the envelope. The Chairperson shall complete the review and make a determination no later than 30 working days after receipt of the request for review, unless a determination is made to extend the 30 day period. If a determination is made to extend the 30 day period, the Chairperson shall notify the requester in writing of the reasons for the delay and the date when the review will be completed.

(c) Upon receipt of a request to review a refusal to amend, the Chairperson shall undertake an independent review of the request and initial determination. If, after conducting the review, the Chairperson agrees to amend, he shall notify the requester promptly in writing of the determination, amend the record, and notify previous recipients in accordance with § 51-9.403.

(d) If, after conducting the review, the Chairperson agrees with the refusal to amend the record, he shall notify the requester promptly in writing of the determination. The notification shall include the reasons for the refusal, and shall advise the individual of his right to file a statement of disagreement, and the procedures for doing so. The Chairperson also shall advise the individual that such statement of disagreement will be made available in any subsequent disclosures of the record together with a concise statement summarizing reasons for refusal where the responsible official deems it appropriate. The Chairperson also will advise the individual of his right to bring civil action against the

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agency in a district court of the United States.

(5 U.S.C. 552a)

[40 FR 51168, Nov. 3, 1975, Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 16777, Apr. 8, 1994; 59 FR 59345, Nov. 16, 1994; 63 FR 16440, Apr. 3, 1998; 65 FR 35287, June 2, 2000]

Subpart 51-9.5—Report on New Systems and Alteration of Existing Systems

§ 51-9.501 Reporting requirement.

(a) No later than 30 days prior to the establishment of a new systems of records, the Executive Director shall submit a copy of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals of the disclosure of information relating to such individuals.

(b) No later than 30 days prior to the alteration of a system of records, the Executive Director for the maintenance of that system of records shall submit a copy of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals of the disclosure of information relating to such individuals.

§ 51-9.502 Federal Register notice of establishment of new system or alteration of existing system.

(a) When the Executive Director receives notice that the Senate, the House of Representatives, and the Office of Management and Budget do not object to the establishment of a new system of records, or the alteration of an existing system of records, or

(b) When no fewer than 30 days elapse from the submission of the proposal to the Senate, the House of Representatives, and the Office of Management and Budget, without receipt by the Executive Director of an objection to the

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proposal, then a notice shall be published in the FEDERAL REGISTER of the proposed establishment or alteration of a system of records. The notice shall include all of the information required to be provided by the Privacy Act of 1974, and such other information as deemed necessary.

§ 51-9.503 Effective date of new systems of records or alteration of an existing system of records.

Systems of records proposed to be established or altered in accordance with the provision of the subpart shall be effective no sooner than 30 days from the publication of notice required by § 51-9.502.

Subpart 51-9.6—Exemptions [Reserved]

Subpart 51-9.7—Rules of Conduct for Disclosure of Information About an Individual

§ 51-9.701 Committee rules of conduct.

(a) Every Committee member and employee who is involved in the design, development, operation, or maintenance of a system of records, or who has access to a system of records, shall familiarize himself with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and the Committee regulations and orders issued thereunder and apply these requirements to all systems of records.

(b) No Committee member or employee shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains, unless the disclosure would be to a recipient specified in paragraph (c) of this section. The term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the

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individual, such as a finger or voice print or a photograph. The term "system of records" means a group of any records under the control of the Committee from which information is retrieved by the name of the individual or by some identifying number symbol, or other identifying particular assigned to the individual. The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected. The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence. The term "agency" is defined in 5 U.S.C. 552(e).

(c) An employee may disclose any record which is contained in a system of records, without a written request by and without the prior written consent of the individual to whom the record pertains, if the disclosure would be:

(1) To those Committee members and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) Required under section 552 of Title 5 U.S.C.;

(3) For a routine use as described in paragraph (b) of this section;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 U.S.C.;

(5) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or crimi-

nal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(d) No Committee member or employee shall maintain a record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.

(e) No Committee member or employee shall sell or rent an individual's name and address unless such action is specifically authorized by law.

(f) A Committee member or employee, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by paragraph a of this section or by any other rules or regulations established under the Privacy Act of 1974, and who (1) knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, or (2) willfully maintains a system of records without meeting the notice requirements of the Privacy Act of 1974, or (3)

knowingly and willfully requests or obtains any record concerning an individual from any agency under false pretenses, is subject to criminal penalties and administrative sanctions. Any Committee member or employee who (i) makes a determination not to amend an individual's record in accordance with the Privacy Act of 1974, or (ii) refuses to comply with an individual's request to gain access to review, and obtain a copy of any information pertaining to him, or (iii) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities or of benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual, or (iv) fails to comply with any provision of the Privacy Act of 1974 or any Committee regulation implementing it, subjects the Committee to civil penalties and himself to administrative sanctions.

PART 51-10—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

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AUTHORITY: 29 U.S.C. 794.

SOURCE: 50 FR 22894, June 23, 1986, unless otherwise noted. Redesignated at 56 FR 48983, Sept. 26, 1991.

§ 51-10.101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 51-10.102 Application.

This part applies to all programs or activities conducted by the agency.

§ 51-10.103 Definitions.

For purposes of this part, the term—
Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe

or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Handicapped person means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase:

(1) *Physical or mental impairment* includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) *Major life activities* includes functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major

life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in subparagraph (1) of this definition but is treated by the agency as having such an impairment.

Historic preservation programs means programs conducted by the agency that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

Qualified handicapped person means—

(1) With respect to preschool, elementary, or secondary education services provided by the agency, a handicapped person who is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive education services from the agency.

(2) With respect to any other agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature;

(3) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(4) *Qualified handicapped person* is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § 51-10.140.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955). As used in this part, section 504 applies

only to programs or activities conducted by Executive agencies and not to federally assisted programs.

Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

§§ 51-10.104—51-10.109 [Reserved]

§ 51-10.110 Self-evaluation.

(a) The agency shall, by August 24, 1987, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, until three years following the completion of the self-evaluation, maintain on file and make available for public inspection:

- (1) a description of areas examined and any problems identified, and
- (2) a description of any modifications made.

§ 51-10.111 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ 51-10.112—51-10.129 [Reserved]

§ 51-10.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied

the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a

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program activity with respect to handicapped persons.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(6) The agency may not administer a licensing or certification program in a manner that subjects qualified handicapped persons to discrimination on the basis of handicap, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this part.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§§ 51-10.131—51-10.139 [Reserved]

§ 51-10.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of

1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§§ 51-10.141—51-10.148 [Reserved]

§ 51-10.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 51-10.150, no qualified handicapped person shall, because the agency's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ 51-10.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 51-10.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by

a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods*—(1) *General*. The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of the services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(2) *Historic preservation programs*. In meeting the requirements of §51-10.150(a) in historic preservation programs, the agency shall give priority to methods that provide physical access to handicapped persons. In cases where a physical alteration to an historic property is not required because of §51-10.150(a)(2) or (a)(3), alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide handicapped persons into or through por-

tions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance*. The agency shall comply with the obligations established under this section by October 21, 1986, except that where structural changes in facilities are undertaken, such changes shall be made by August 22, 1989, but in any event as expeditiously as possible.

(d) *Transition plan*. In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, by February 23, 1987 [months after the effective date], a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

§51-10.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151-4157), as established in 41 CFR 101-19.600 to 101-19.607, apply to buildings covered by this section.

§§ 51-10.152—51-10.159 [Reserved]

§ 51-10.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf person (TDD's) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 51-10.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or

her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ 51-10.161—51-10.169 [Reserved]

§ 51-10.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Executive Director shall be responsible for coordinating the implementation of this section. Complaints may be sent to the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or

§§ 51-10.171—51-10.999

41 CFR Ch. 51 (7-1-09 Edition)

facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § 51-10.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

[50 FR 22894, June 23, 1986. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 16777, Apr. 8, 1994; 63 FR 16440, Apr. 3, 1998; 65 FR 35287, June 2, 2000]

§§ 51-10.171—51-10.999 [Reserved]

restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: September 27, 2011.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011-25247 Filed 9-29-11; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA629

Marine Mammals; File No. 15471-01

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that a major amendment to Permit No. 15471 has been issued to Michael Adkesson, D.V.M., Chicago Zoological Society, 3300 Golf Rd., Brookfield, IL 60527.

ADDRESSES: The permit amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376; and Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281-9328; fax (978) 281-9394.

FOR FURTHER INFORMATION CONTACT: Laura Morse or Jennifer Skidmore, (301) 427-8401.

SUPPLEMENTARY INFORMATION: On August 11, 2011, notice was published in the **Federal Register** (76 FR 49736) that a request for an amendment to Permit No. 15471 to import specimens from South American fur seals (*Arctocephalus*

australis) and South American sea lions (*Otaria flavescens*) for scientific research had been submitted by the above-named applicant. The requested permit amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit has been amended to increase the total number of individuals to 765 and include samples from up to 200 male South American fur seals that can be received, imported, or exported over the duration of the permit. In addition, the permit holder is authorized to receive, import, or export samples from up to 400 adult and pup South American sea lions over the duration of the permit.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: September 26, 2011.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011-25272 Filed 9-29-11; 8:45 am]

BILLING CODE 3510-22-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Notice; Adoption of Operational Name for Agency

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Final Notice; adoption of operational name for agency.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled has deliberated and voted to adopt U.S. AbilityOne Commission as its operational name. The operational name change will not affect the statutory name of the agency; however, the name change will allow the Committee to take advantage of the strong and unified AbilityOne® name. The Committee has decided to adopt an operational name in order to ensure greater recognition and transparency as a federal agency responsible for implementing and administering a federal statute.

DATES: *Effective Date:* October 1, 2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of Notice

The Javits-Wagner-O'Day (JWOD) Act (Pub. L. 92-28), established an agency to be known as the Committee for Purchase From People Who Are Blind or Severely Disabled (Committee). The purpose of the JWOD Act is to generate employment and training opportunities for people who are blind or have other severe disabilities in the manufacture and delivery of products and services to the federal government. The law requires federal agencies to procure certain products and services that are produced and provided by community-based nonprofit agencies that are dedicated to training and employing persons who are blind or have other severe disabilities.

The Committee is an independent federal agency and consists of fifteen members appointed by the President (11 from specific federal agencies and four private citizens). The Committee works closely and collaboratively with two designated (non-governmental) central nonprofit agencies (CNAs): National Industries for the Blind (NIB) and NISH (creating employment opportunities for people with significant disabilities) to operate the program. In addition, the JWOD Act authorizes the Committee to make rules and regulations necessary to carry out the Act.

In 1938, Congress passed the Wagner-O'Day Act so people who are blind could manufacture mops and brooms to sell the federal government. In 1971, the JWOD Act expanded the Wagner-O'Day Act to include people who had severe disabilities and to authorize the program to provide services to the government. For decades, the program operated as the "NIB/NISH Program" and/or the "JWOD Program." In 2006, the program changed its name to AbilityOne® in order to build a descriptive and powerful brand identity, to better convey its employment mission, and to link participating nonprofit agencies.

The name change to AbilityOne has been a tremendous success and has resulted in a stronger, more unified program. However, there still exists confusion and misunderstanding among federal agencies and non-federal entities, regarding the status and

purpose of the Committee. In addition, the name (Committee for Purchase From People Who Are Blind or Severely Disabled) does not independently identify it as a federal agency, and the term "Committee" is commonly associated as being in an advisory capacity.

Consequently, in order to enhance the ease of identification of the Committee as a federal agency responsible for administering the JWOD Act, the Committee has voted to adopt U.S. AbilityOne Commission as an operational name. In order to ensure that all federal agencies and non-governmental entities that are familiar with the Committee name are able to recognize and transfer their support to the new operational name, the U.S. AbilityOne Commission will continue to use the statutory name in appropriate circumstances. The dual use will enable the Committee to use existing business materials that contain the statutory name and to begin using the new name as materials and supplies are refreshed in the normal supply cycle.

II. Administrative Procedure Act

Because this notice merely implements an operational name change of a government agency, it relates only to agency organization, procedure or practice, and, accordingly, requirements for prior notice and public comment do not apply. 5 U.S.C. 553(b)(3)(A). The Committee for good cause finds, pursuant to 5 U.S.C. 553(b)(3)(B), that notice and public comment thereon are unnecessary. In addition, and for the same reasons, the Committee finds, for good cause, pursuant to 5 U.S.C. 553(d)(3), that this notice should take effect immediately.

III. Paperwork Reduction Act

This final notice does not include a collection of information as defined in 44 U.S.C. 3502(3) of the Paperwork Reduction Act of 1995. Required changes in the references to the agency name are not substantive or material modifications to the existing collections of information. The applicability date for this change should further limit any associated burden. Accordingly, the modifications to this collection of information have not been submitted to OMB for review.

IV. Regulatory Flexibility Act

Because this notice is being promulgated without a proposal and an opportunity for public comments, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply. In any event, the technical amendments made by this notice will not have a significant impact

on a substantial number of small entities.

V. Congressional Review Act

This notice is a notice of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties. It is therefore not subject to the Congressional Review Act pursuant to 5 U.S.C. 801 and 804(1).

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2011-25270 Filed 9-29-11; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 10/31/2011

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202-3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or e-mail CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

Additions

On 7/1/2011 (76 FR 38641-38642) and 8/5/2011 (76 FR 47565-47566), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a

substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

NSN: 8940-00-NIB-0094—Soup, Shelf-Stable, Cream of Mushroom, Low Sodium.

NSN: 8940-00-NIB-0095—Soup, Shelf-Stable, Cream of Chicken.

NPA: Cambridge Industries for the Visually Impaired, Somerset, NJ.

Contracting Activity: Department of Agriculture, Agricultural Marketing Service, Washington, DC.

Coverage: C-List for 100% of the requirement of the Department of Agriculture, as aggregated by the Department of Agriculture, Agricultural Marketing Service, Washington, DC.

Services

Service Type/Locations: Grounds Maintenance. National Weather Service Weather Forecast Office, 587 Aero Drive, Buffalo, NY. Radar Data Acquisition Site, 3 North Airport Drive, Cheektowaga, NY. Upper-Air Observatory, Amherst Villa Road, Cheektowaga, NY.

NPA: Suburban Adult Services, Inc., Elma, NY.

Contracting Activity: National Oceanic and Atmospheric Administration, Norfolk, VA.

Service Type/Location: Transient Aircraft Services. Moody AFB, GA.

NPA: Training, Rehabilitation, & Development Institute, Inc., San Antonio, TX.

Contracting Activity: Dept of the Air Force, FA4830 23 CONS CC, Moody AFB, GA

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2011-25269 Filed 9-29-11; 8:45 am]

BILLING CODE 6353-01-P



Employment Growth / Immediate Payoff Group Report

Mr. Kesteloot, Mr. Heinecke/ Mr. Mitchell
July 14, 2011



**IPO Task Force
Working to Improve
the
Program's Mandatory Source Status
to
Maximize Employment Opportunities**

July 14, 2011



Creating Employment
Opportunities
For People With
Severe Disabilities

Background

- Strategic Planning Off-site – 2009
- Task Force (TF) was formed at the request of the Executive Director of the AbilityOne Commission
- One of the key objectives for this group was to better leverage the resources of Committee members
 - “Federal agency Committee for Purchase members should be asked and encouraged to become advocates for the AbilityOne program by promoting it within their agencies, through such actions as internal agency communications... and ensuring their agencies contracting and purchasing staff are educated on AbilityOne”

Memorandum for CEO Executives, 2009

- TF included representatives from NPAs, NIB, NAEPB, NISH, NCWC, and Committee staff

Why is “Mandatory” Important?

- Established in the Javits-Wagner-O'Day Act, Section 3 (41 U.S.C. § 48)
- “Mandatory” source requirement is critical to achieving the AbilityOne employment mission
- Compliance with “mandatory” source results in sustainment of jobs for Americans employed through the AbilityOne Program
- Mandatory source requirement is not consistently followed by Federal buyers

Task Force Objectives

- Identify areas for improvement that, if fixed, have the best potential for “immediate pay-off”
- Develop action plans that, when implemented, will improve compliance with mandatory source requirements and AbilityOne Program awareness
- Engage and involve Committee members in implementing the action plans
- Quantify jobs lost to AbilityOne Program “buy rounds” and other ETS infractions

Key Findings

- Over 1,400 jobs are estimated to be lost through ETS sales on GSA Schedule contracts
- Hundreds of jobs have been lost to the purchase of “replacement products” of Procurement List items with specification changes
- Tools and tactics need to be developed and made available to Committee members so they can improve recognition of Program’s mandatory source requirement in their Agencies

ETS on GSA Schedules

- **Lost sales = lost jobs**
- **Total estimated jobs lost = 1,441**
- Schedule 51V - Hardware = 11 Jobs
- Schedule 70 – Information Technology = 71 Jobs
- Schedule 71 – Office Furniture = 11 Jobs
- Schedule 73 – Food Service = 15 Jobs
- Schedule 75 – Office Products = 683 Jobs
- Other Schedules = 650 jobs

Based on FY09 Sales data

Recommendations – ETS Sales

Recommend Committee engage GSA to:

- Increase removal of ETS from schedule contracts through increased ETS “scrubbing” of schedule holder product lists
- Remove commercial products and product listings from Advantage (use search instead)
- Like the current FSSI directive - require schedule holders to be AbilityOne authorized distributors – for schedules 51v, 70, 71, 73 and 75.

Recommendations – ETS Sales

Recommend Committee engage GSA to:

- Include AbilityOne language in all schedule contracts
- Include AbilityOne contract language in acquisition initiatives, including BPAs, RFPs and RFQs, where products are being procured
- Implement AbilityOne “mandatory source” compliance at the same level as TAA and other purchasing laws
- Increase use of a product sampling tactic with Authorized Distributors to ensure AbilityOne products are being shipped when ordered

Recommendations – Replacement Products

Recommend Committee direct Committee staff to:

- Review CFR for appropriate updates and changes
 - Conduct process review from Federal customer perspective
 - Incorporate Federal customer recommendations
- Develop and implement training, contract language and other materials as necessary to insure that products that are updated in spec are maintained on the procurement list
- Develop a FAR-case to prescribe AbilityOne Program replacement product procedures

Recommendations – Tools and Tactics

Recommend Committee members engage to accomplish:

- Letter of support from agency lead
- Disseminate the “tool kit” (that the IPO Task Force will provide) throughout the agency and actively collect reporting and other feedback on usage of the materials
 - The IPO Task Force will develop the “tool kit” of materials and other information necessary to implement the recommendations to allow Committee members to focus their efforts on outreach and advocacy

Recommendations – Tools and Tactics

Recommend Committee members engage to accomplish:

- Commitment to conduct annual agency-wide National Disability Employment Awareness Month events in the October timeframe
- Establish quarterly formal AbilityOne training for newly hired and promoted acquisition and contracting staff
- Develop a plan to have all Office of Small and Disadvantaged Business Utilization staff and purchase card managers visit at least one AbilityOne CRP/NPA annually
- Include a permanent AbilityOne icon on agency computer desktops that links to *abilityone.gov*

Recommendations – Tools and Tactics

Recommend Committee members engage to accomplish:

- Commitment that agency purchase cards will feature the AbilityOne logo
- Develop and execute a plan to use webinars and other online, interactive training programs to increase awareness
- Commitment to incorporate AbilityOne into intra-Agency events where possible

Proposed Actions

- Support the recommendations of the IPO Task Force
- Each Federal Agency Committee member develop a member's proactive plan of engagement to implement the recommendations appropriate to their Agency **by October 1, 2011**
- Reporting on IPO Task Force tasking implementation become a permanent, regular agenda topic for the Committee

Next Steps

- Develop the tool kit
- Develop action plans with each Federal Committee member
- Implement the plans
- Monitor progress

Contact Information

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