



U.S. ABILITYONE COMMISSION

Policy 51.540
Date: 07/01/2016

TITLE: AbilityOne® Authorized Commercial Distributor Program Requirements

1. PURPOSE.

This document prescribes the framework, requirements, and procedures pertaining to the U.S. AbilityOne Commission’s (Commission) authorization of commercial distributors to distribute AbilityOne products to Federal agencies and other entities.

2. APPLICABILITY.

This policy and related procedures apply to the Commission, its designated Central Nonprofit Agencies (CNAs), AbilityOne participating nonprofit agencies (NPAs), Federal contracting activities, and commercial distributors seeking to obtain or maintain authorization to distribute AbilityOne products to Federal agencies.

3. AUTHORITY.

- (a) 41 U.S.C. §§ 8501 - 8506, Javits-Wagner-O’Day (JWOD) Act
- (b) 41 CFR Chapter 51, Committee for Purchase From People Who Are Blind or Severely Disabled

4. DEFINITIONS AND ACRONYMS.

Definitions, abbreviations, and acronyms frequently used throughout the Commission’s policy system are provided in Policy 51.102, Definitions. Terms unique to a specific subject matter are defined in the associated policy and/or procedure.

DEFINITIONS	
AbilityOne Authorized Distributor	Companies (also called dealers) that have been formally authorized by the U.S. AbilityOne Commission to buy and resell AbilityOne products in accordance with Commission Policy 51.540 and Procedure 51.540-01.
Authorization Violation	Action (or lack of required action) by an AbilityOne authorized distributor which the Commission determines does not conform to the requirements of this Policy (51.540), including its Appendices and its Procedure (51.540-01). Authorization violations may include, but are not limited to, the marketing/sale of a commercial product in lieu of the appropriate AbilityOne item, failing to block and substitute the AbilityOne product at the order entry point, failing to carry all prescribed AbilityOne products, or excessive pricing of AbilityOne products on a contract or schedule.
Commercial Item	As defined at FAR 2.101, incorporated by reference.
Essentially the Same (ETS)	As defined in Commission Policy 51.541, Requirement to Purchase Products on the Procurement List Instead of “Essentially the Same” (ETS) Items, dated April 27, 2015; incorporated by reference.



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Probation	A status assigned by the Commission during which a violating distributor is subject to a 12-month period of enhanced compliance monitoring based on the criteria established in Commission Policy 51.540. Probation is normally assigned when an AbilityOne authorized distributor is found to have violated Commission Policy 51.540 or 51.541 for the second time within 12 months. A third violation within 12 months will result in de-authorization.
Violating Distributor	An AbilityOne authorized distributor found by the Commission to have violated Commission Policy 51.540 or 51.541.

5. RESPONSIBILITIES.

- (a) The Commission facilitates Federal agencies’ compliance with the AbilityOne mandatory source requirement at 41 CFR 51-5.2 by authorizing commercial sources to resell Procurement List items and implementing its distribution program.
 - i. The Commission administers its commercial distribution program equitably and with transparency; to include establishing policies and procedures for the authorization or de-authorization of private sector distributors of AbilityOne products, known as AbilityOne authorized distributors.
 - ii. The Commission monitors AbilityOne authorized distributors’ performance in accordance with the program requirements herein with Central Nonprofit Agency (CNA) support, recognizing outstanding distributors and addressing noncompliance.
 - iii. The Commission oversees all participants’ involvement in the AbilityOne Authorized Distributor Program and takes the steps it deems necessary to protect program integrity and ensure regulatory compliance.
- (b) The CNAs assist the Commission in its implementation of the AbilityOne Program, by allocating orders as necessary among nonprofit agencies and performing certain functions required by the Commission in accordance with 41 CFR 51-3.2(n), such as operational support for the AbilityOne Authorized Distributor Program.
 - i. The CNAs engage and educate AbilityOne authorized distributors regarding compliance, the appropriate AbilityOne product mix and product information, and provide support as practical to facilitate the sale of AbilityOne items.
 - ii. The CNAs serve as the focal points for distributor product inquiries or resolving discrepancies with quality, shipping or invoicing.
 - iii. The CNAs monitor AbilityOne product sales, furnish and/or track information and make recommendations to the Commission regarding the authorized distributors’ compliance with program requirements herein.
- (c) Contracting activities, pursuant to FAR 8.005 and FAR 52.208-9, Contractor Use of Government Sources of Supplies and Services, and in accordance with 41 CFR 51-5.2(c), will require Federal contractors to utilize mandatory sources of supply when furnishing products on the Procurement List to entities of the Government (by contract), and to obtain those products from the AbilityOne authorized sources designated by the Commission.

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- (d) AbilityOne authorized distributors maintain their authorization by complying with the distributor requirements in Commission Policies 51.540 and 51.541, and submit data as specified by the Commission.

6. POLICY.

- (a) **General.** AbilityOne authorized distributors resell mandatory Procurement List products to Federal customers, and in doing so, are representatives of the AbilityOne Program. They are expected to meet general standards consistent with FAR 9.104 and to adhere to program requirements.
- i. New distributors must submit an application to the Commission in accordance with Section 8 herein and Appendix A. Submission does not guarantee a distributor will be authorized by the Commission.
 - ii. Distributors shall not sell AbilityOne products, or notify customers about AbilityOne products, unless and until a letter of authorization is received from the Commission.
 - iii. AbilityOne® is a registered trademark of the U.S. AbilityOne Commission. All use of the brand and logo, whether in print or electronic format, must be approved by the Commission, the sole owner of this trademark. All use must be consistent with the Commission's guidelines available at:
http://abilityone.gov/laws,_regulations_and_policy/genpolicy.html.
 - iv. SKILCRAFT® is a registered trademark of National Industries for the Blind (NIB). All use of the brand and logo, whether in print or electronic format, must be approved by the NIB, the sole owner of this trademark. Permission to sell SKILCRAFT branded products outside of the Federal Government market must be granted by NIB.
 - v. Violations of this Policy, including its Appendices, will be addressed in accordance with U.S. AbilityOne Commission Procedure 51.540-01.
 - vi. All newly authorized distributors must complete mandatory AbilityOne training within 60 days of authorization. The Commission highly encourages AbilityOne authorized distributors to participate in ongoing training for updates on policies, procedures and program related activities.
- (b) **Exclusivity.** AbilityOne authorized distributors shall abide by the AbilityOne exclusivity principle, i.e., not to sell commercial products to Federal customers on any Federal contracts, including, but not limited to, the GSA Schedule and DoD E-Mall, e-commerce sites, retail operations on Federal facilities, or Federal solicitations if those products have been determined Essentially the Same (ETS) as AbilityOne products (See Commission Policy 51.541). Products that are ETS as AbilityOne products but are neither wholesaler-supported nor available for drop shipment do not have to be blocked from open market sales.
- i. AbilityOne authorized distributors shall not substitute a commercial ETS product when an AbilityOne product is ordered.
 - ii. AbilityOne authorized distributors must be able to explain (prior to authorization) and must be able to demonstrate (after authorization) how AbilityOne items will be automatically substituted for commercial ETS products, if ordered.

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- a. The automated blocking and substitution function must be operative within 45 days of authorization, or within 45 days after initial contract effective date, whichever occurs later.
 - b. The blocking and substitution system only applies to commercial products that have been determined ETS as AbilityOne products and are on the authorized wholesaler supported list or are available for drop shipment from the AbilityOne nonprofit agency.
 - c. Upon request, after the effective date, distributors must demonstrate their blocking and substitution capability. Failure to do so is considered an Authorization Violation (See Commission Procedure 51.540-01) and will result in action up to and including rescission of authorization.
 - iii. Distributors are required to notify customers when a request for a commercial ETS product is fulfilled with an AbilityOne product.
 - a. Notification shall be made prior to shipment.
 - b. Messaging to the customer shall include: “Your request for a commercial part number has been satisfied with an AbilityOne product as required by 41 U.S.C. § 8504 and FAR 8.7, Required Sources of Supply.”
 - iv. Distributors shall elevate disputes regarding ETS designations, or out-of-stock circumstances to the appropriate CNA in accordance with Commission Policy 51.541. The designated CNA will respond to the distributor, or elevate the dispute to the Commission, to ensure the customer’s needs are met in a timely manner.
 - v. Distributors that have won an award based on an individual solicitation via a Federal or commercial e-commerce site must, upon request, provide proof that the appropriate AbilityOne product was shipped to the Federal customer (e.g., delivery order validating purchase of the product from a wholesaler or direct from the manufacturing nonprofit agency). Failure to do so is considered an Authorization Violation (See Commission Procedure 51.540-01).
- (c) **Product mix.** Distributors are required to make available all of the AbilityOne products that are on the wholesaler supported list issued by the Commission if they offer a commercial equivalent to Federal customers.
- i. AbilityOne products that are not stocked by the wholesalers should also be made available by distributors when those items are available from the manufacturing nonprofit agency by wholesaler special order or, if authorized as specified in Appendix B, via direct ordering and drop shipment.
- (d) **Contractual coverage.** AbilityOne products must be included on the authorized distributor’s appropriate Federal contract, GSA Schedule and/or DoD E-Mall listing, as applicable.
- i. Within 45 days of authorization, or within 45 days after first contract award, whichever comes last, distributors must submit their contract [schedule] product listing for review by AbilityOne personnel to ensure compliance with AbilityOne Program policies and requirements. The Commission may request review of authorized distributors’ product listing at any time thereafter.

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- ii. Within 45 days of authorization, or within 45 days of contract award, whichever comes last, distributors must make available the pertinent AbilityOne products as described in 6(c) above.
 - a. Issues preventing the incorporation of AbilityOne products into contracts or schedules, including problems with uploads to Federal websites, must be communicated to the Commission in writing.
 - b. Failure to incorporate or upload the pertinent AbilityOne products within 45 days of authorization is considered an authorization violation (See Procedure 51.540-01) and may result in probation.
 - iii. Authorized distributors must notify the Commission in writing of all future awards of national or regionally scoped Federal contracts and/or Blanket Purchase Agreements at the Federal department, agency, bureau level or installation level.
 - iv. AbilityOne product lists are reviewed, updated, and released quarterly. All authorized distributors must make the appropriate additions and deletions to Federal contracts to reflect changes in the AbilityOne product offering within the effective date (normally 45 days after issuance) of the appropriate product list.
 - a. Distributors must be able to demonstrate, upon AbilityOne request, submission of the necessary contract modification documents to GSA.
 - b. Issues preventing the incorporation of AbilityOne products into contracts or schedules, including problems with uploads to Federal websites, must be communicated to the Commission in writing.
 - c. Contract pricing issues for new products should be addressed with the responsible Contracting Officer. Contract pricing issues must be resolved with the Contracting Officer and are not valid reasons for an authorized distributor to forego adding new AbilityOne products to Federal contracts.
 - d. Failure to incorporate new products or submit modifications in the appropriate timeframe is out of conformance with AbilityOne requirements and is considered an authorization violation (See Commission Procedure 51.540-01).
- (d) **Marketing and Sales.** Distributors shall ensure that their marketing materials, such as government unique catalogs or flyers, do not promote the sale of ETS items to Federal customers. Distributors shall promote the availability of AbilityOne products and market them in a manner comparable to non-ETS commercial products in all Federal marketing initiatives.
- i. Both at the time of applying to be a distributor and after authorization, upon request, distributors must provide their catalog files electronically (i.e., spreadsheet or database) to support ETS reviews. The electronic file requirements are listed in Sec. 8 (e) of this policy.
 - ii. Print catalogs.
 - a. If the distributor publishes a full-line print catalog, it is preferred that the AbilityOne items be incorporated throughout. However, a commercial print

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- catalog with an AbilityOne insert is acceptable, with the understanding that any ETS items in the full line catalog will be blocked if ordered.
 - b. If the distributor publishes a smaller, Government-unique print catalog, all ETS products must be removed. The authorized distributor shall ensure AbilityOne products are included in the catalog.
 - c. All custom print catalogs shall be provided to the AbilityOne Commission or designated CNA for review and approval prior to being published, allowing the program at least two weeks to review catalog proofs.
 - d. Standard wholesaler catalogs do not have to be provided for review; instead, authorized distributors shall indicate which wholesaler catalog will be used.
 - iii. Electronic catalogs.
 - a. The AbilityOne Program requires that electronic (on-line and/or CD) catalogs fully integrate AbilityOne products into all search features where applicable.
 - b. A separate link or button for Federal users/AbilityOne products is encouraged.
 - c. Removal of all ETS items is required if the electronic catalog is hosted on a website that is dedicated to Federal customers.
 - d. If the electronic catalog is not hosted on a website dedicated to Federal customers, but is part of the distributor's commercial electronic catalog, the authorized distributor must still block the sale of commercial ETS products to Federal customers.
 - e. To ensure ecommerce sites are compliant, authorized distributors must provide user access to the site and communicate site locations or access changes to the Commission within two weeks of the change.
 - iv. Reporting.
 - a. Authorized distributors must provide sales reports for total AbilityOne sales on a quarterly basis (quarters ending March 31, June 30, September 30 and December 31), within 30 days of the end of each calendar quarter. The sales report should include the NSN, units sold, and sales (in US dollars) in an electronic format (Excel).
 - b. Authorized distributors shall grant the AbilityOne Program permission to obtain sales data for AbilityOne products from approved wholesalers on a quarterly basis.
- (e) Storefronts.**
 - i. For distributor-run stores at Federal facilities, no commercial ETS products may be stocked or sold, and the appropriate AbilityOne products shall be stocked and sold. Store site visits are conducted by CNA personnel to verify adherence to this policy.
 - ii. Distributor-run stores that are open to the public are not authorized to participate in the AbilityOne Authorized Distributor Program, unless the distributor demonstrates how the walk-in store adheres to the Commission's requirements for distributors herein, to include preventing the sale of ETS products to Federal customers.

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- (f) **Pricing and Delivery to Federal customers.** Authorized distributors must adhere to the Commission's guidance for customer pricing and delivery for AbilityOne products.
- i. Authorized distributors may not exceed a markup of 35% above their respective wholesaler pricing plan without a written exception from the Commission. If the products are not wholesaler supported, the distributors' markup may not exceed 55% of the Commission's FOB destination price.
 - a. Detailed information will be required from distributors in order to receive approval for markups above the Commission's ceiling.
 - ii. Where authorized distributors have a contract with a Federal contracting activity requiring a lower mark-up ceiling than the Commission's absolute ceiling (as stated in Section 6(f)i above), the distributors should adhere to the contract.
 - iii. The Commission reserves the authority to preclude authorized distributors from reselling AbilityOne products at a price below the Fair Market Price (FOB destination) set by the Commission. Such loss leaders or discounted prices may result in noncompliance with AbilityOne requirements. Products sold below a distributor's normal costs will be subject to a greater degree of review by the AbilityOne Program to ensure that the AbilityOne products are actually being fulfilled.
 - iv. Authorized distributors must offer AbilityOne products to Federal customers in a timeframe comparable to that of commercial products handled by the distributor.
 - v. Authorized distributors must offer AbilityOne products on Schedules or other Federal contracts in the unit of issue specified by the Commission (on the Commission price files).
 - a. As long as the official unit of issue remains an option for the customer to order, authorized distributors may choose to break down the unit of issue to also sell in lower units and may also choose to offer bulk quantities.
 - b. Authorized distributors may not limit customers to a minimum order quantity (MOQ) above the standard unit of issue identified by the Commission; this is considered an authorization violation (See Commission Procedure 51.540-01).
- (g) **Ordering/Purchasing.** The AbilityOne Program Terms and Conditions in Appendix B apply to all direct purchases from the manufacturing nonprofit agencies.
- i. Authorized distributors must order AbilityOne products through an approved wholesaler unless they are authorized by the Commission to buy directly from the manufacturing nonprofit agencies.
 - ii. Authorized distributors must advise the appropriate CNA and the Commission if out-of-stock situations at the wholesale level disrupt the timely fulfillment of AbilityOne products.
 - iii. If authorized to order directly, distributors must purchase AbilityOne products from the manufacturing nonprofit agency location identified by the CNA and shall follow the procedures for direct orders outlined in Appendix B.
 - iv. The Commission publishes origin and destination prices on a quarterly basis. Authorized distributors with permission to order direct can choose to use either origin

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- or destination pricing; however, they may not choose to use a combination of origin and destination prices.
- v. Drop shipment terms and conditions are outlined in the Ordering, Payments procedures. Authorized distributors wishing to request drop shipment(s) shall comply with Appendix B.
 - vi. For products that are purchased directly from the nonprofit agencies (not through a wholesaler), NIB manages the allocation percentage for the NSNs on the Procurement List that have multiple producing nonprofit agencies. Authorized distributors shall adhere to the allocations by NIB to ensure each order goes to the appropriate NPA. If requested by NIB, authorized distributors must provide quarterly reporting to NIB within 30 days of the end of the quarter on allocation results, to ensure equitable allocation is achieved.

(h) Limitations of Authorization.

- i. Non-government sales: The majority of AbilityOne products may be sold to commercial customers, unless they are bound by product license agreements that restrict sales to the Federal Government only. A list of restricted items will be provided by the Commission.
 - ii. Selling to other distributors: The Commission has criteria and standards for AbilityOne Authorized Wholesalers. Authorized distributors who intend to operate as a wholesaler, i.e., selling AbilityOne items to other authorized distributors instead of to Federal customers, must be authorized by the Commission to do so, unless a Commission-approved teaming agreement is in place.
 - iii. The Commission reserves the right to dissolve the authorization and business relationship with a distributor within the first year. After the first year, the relationship may be dissolved by the Commission if the authorized distributor fails to adhere to the criteria outlined in this document and compliance procedures.
- (i) Performance.** Authorized distributor performance is measured by a Commission-administered program that considers compliance with the policy and procedural requirements herein as well as sales of AbilityOne products compared to total Government sales.
- i. The Commission will evaluate quarterly the AbilityOne Authorized Distributors' compliance with the requirements in this policy, including, but not limited to, AbilityOne product exclusivity (ETS), product mix, contract coverage, marketing and sales; storefronts; pricing and delivery to Federal customers; ordering and purchasing terms and conditions; limitations of the AbilityOne authorization and minimum annual AbilityOne sales.
 - ii. Authorized distributors must maintain annual sales of AbilityOne products totaling a minimum of \$5,000. Upon authorization, the initial annual period for measuring minimum sales will commence after the first two full standard quarters.
 - iii. Authorized Distributors are strongly encouraged to schedule annual reviews with the Commission and/or CNAs to discuss performance.

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- iv. Outstanding Distributor designations will be awarded annually, based on criteria issued by the Commission prior to each Federal fiscal year.
- v. Authorization violations or other noncompliance will be addressed in accordance with U.S. AbilityOne Commission Procedure 51.540-01. The Commission may consider and weigh the severity of a particular violation or nonconformance. Noncompliance will result in actions by the Commission up to and including de-authorization.

7. EXCEPTIONS TO POLICY.

None.

8. PROCEDURES.

- (a) Distributors seeking authorization to sell AbilityOne products must submit an application (**see Appendix A**).
- (b) The Commission's Commercial Distribution Coordinator (CDC) will review the application and determine whether the distributor meets the Commission's minimum requirements for authorization.
- (c) Upon determining that a distributor's application is acceptable, the CDC will send a Distributor Agreement to the distributor that must be completed, signed and returned.
- (d) The CDC will issue an authorization letter upon return of an acceptable Distributor Agreement is executed and returned.
- (e) The appropriate Central Nonprofit Agency will conduct a catalog review in the first 30 days of authorization, and annually thereafter, for any distributor that publishes its own catalog(s) for Government sales [not applicable to use of authorized wholesaler catalogs]. Catalog-producing distributors shall provide an electronic file containing the following information, where applicable. Distributor should advise the Central Nonprofit Agency if any of the below fields are not applicable (e.g., if there is no current catalog page number or wholesaler's SKU.)
 - i. Catalog Publisher SKU
 - ii. Description
 - iii. Long Description
 - iv. Unit of Issue
 - v. Current Catalog Page Number
 - vi. 12-digit UPC Code
 - vii. Product Category
 - viii. Manufacturer SKU or MPN
 - ix. Manufacturer Name
 - x. Manufacturer Code
 - xi. Essendant SKU/Order No.
 - xii. S.P. Richards SKU/Product No. 13-digit EAN or 14-digit GTI

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- (f) Each AbilityOne Authorized Distributor must certify that its automated blocking and substitution function is operative within 45 days of authorization, or within 45 days after initial contract effective date, whichever occurs later (see Sec. 6(b)ii(a)).
- (g) Each AbilityOne Authorized Distributor must provide the CDC with their government sales website URL. Upon request, authorized distributors must provide the CDC with log-in credentials.
- (h) Noncompliance with this policy by AbilityOne Authorized Distributors will be addressed in accordance with U.S. AbilityOne Commission Procedure 51.540-01.

9. SUPERSESSION.

None.



APPROVED:

A handwritten signature in blue ink that reads "James Kesteloot".

Date: July 1, 2016

**James Kesteloot
Chairperson**

Appendix A – Distributor Application
Appendix B – Terms and Condition