

AbilityOne and Essentially the Same (ETS) – Frequently Asked Questions

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1. What are "Essentially the Same" (ETS) products?

ETS products are commercial products that are equivalent (but not necessarily identical) in form, fit, and function to products on the AbilityOne [Procurement List](#).

The [U.S. AbilityOne Commission](#) oversees the [AbilityOne Program](#), a mandatory source program that requires Federal agencies to purchase designated products and services from nonprofit agencies employing people who are blind or have other significant disabilities.

When a commercial product is deemed ETS as a Procurement List product, Federal agencies should buy the designated AbilityOne product to comply with the law and regulations.

2. Where does ETS authority come from?

ETS authority originates from the [Javits-Wagner-O'Day \(JWOD\) Act \(41 U.S.C. Chapter 85\)](#), which established the AbilityOne Program and the mandatory source Procurement List.

The term ETS is part of the Code of Federal Regulations (C.F.R.) at [41 C.F.R. § 51-5.3\(a\)](#) and [51-6.13\(c\)](#). In addition, ETS policy is defined in [AbilityOne Commission Policy 51.541](#).

The [2020 VA Contracting Preference Consistency Act \(PL 116-155\)](#) also used “essentially the same” to describe commercial products that meet the same requirements as Procurement List products maintained under the JWOD Act.

3. When did the ETS concept come into existence?

For AbilityOne, the ETS concept developed in the 1990s when Federal agencies began purchasing from commercial sources rather than Government depots. Explicit ETS guidance first appeared in the Code of Federal Regulations in 1994.

The decentralization of small purchases and access to commercial products drove the Commission’s emphasis on the mandatory status of the Procurement List, and thus the exclusivity of AbilityOne products.

4. Where can the public find ETS policy and guidance?

ETS policy and related guidance are published on the AbilityOne Commission's public [ETS webpage](#) and in the Code of Federal Regulations (see FAQ #2). Additional supplements and guidance are available on the public websites of Federal agencies such as GSA and VA.

5. How does the AbilityOne Program determine that products are ETS?

A product is determined to be ETS through a review process that considers the salient characteristics of comparable products in terms of meeting the Government’s requirement – usually defined by specification or product description and assigned a National Stock Number (NSN) – with attention to form, fit, and function:

- a) What is the Government's requirement? How is the NSN defined?
- b) Does the Procurement List product meet (or exceed) the NSN description?
- c) Does the comparable commercial product meet (or exceed) the NSN description?
If so, the commercial product will likely be considered ETS, and a mandatory source AbilityOne product should be purchased instead of the commercial product.

The Commission often works with technical experts such as product engineers at GSA to validate ETS determinations.

6. How can I check to see whether a specific commercial product has been determined to be ETS?

In addition to publishing a [searchable Procurement List of AbilityOne products](#), the Commission publishes a quarterly "ETS File" of products on the Commission's [ETS webpage](#). The Commission also assists with product verification; contact info@abilityone.gov.

7. Is there an appeals process to challenge an ETS determination? How does it work?

Yes. Federal agencies, distributors, or original equipment manufacturers (OEMs) may request a review of any ETS determination by submitting information to the AbilityOne Commission, using the form and instructions found on the Commission's [ETS webpage](#).

The Commission tasks the responsible [central nonprofit agency \(CNA\)](#) with gathering the necessary technical information and making a recommendation. The CNA may recommend changing or maintaining an ETS determination.

If the CNA recommends maintaining the ETS determination, the requesting party may ask the Commission to adjudicate. Challenges occur less than once a year. If needed, the Commission will obtain outside technical expertise to evaluate a challenge.

8. Does AbilityOne ever reverse or remove an ETS determination?

Yes, when new information shows that a product does not meet all criteria to be ETS, the Commission removes that determination and notifies all distribution channel partners.

Federal customers may also request a waiver if there is a compelling reason why the AbilityOne product should not be mandatory. If a customer's requirement cannot be met by the Procurement List item, the customer is able to procure the item they need.

9. Which Federal agencies implement or enforce ETS?

The AbilityOne Commission is ultimately responsible for implementing the ETS policy.

Other Federal agencies like GSA support ETS compliance by incorporating ETS requirements into their contracts and disallowing their contractors to offer ETS products.

10. Where can I get more information or help regarding ETS?

Visit the AbilityOne Commission's [ETS webpage](#) or email info@abilityone.gov.
