



U.S. ABILITYONE COMMISSION
Office of the Chairperson

August 3, 2022

MEMORANDUM

TO: QUALIFIED NONPROFIT AGENCIES IN THE ABILITYONE PROGRAM

FROM: Jeffrey A. Koses, Chairperson DocuSigned by:
Jeffrey A. Koses
21BD80B9E8AC4A0...

SUBJECT: Extension Request for Compliance with CFRs §51-4.2 (a)(1)(iv) and §51-4.3 (b)(10).

The Committee for Purchase From People Who Are Blind or Severely Disabled, operating as the U.S. AbilityOne Commission (“Commission”), recently published a final rule that now requires a nonprofit agency (NPA) seeking initial qualification under the Javits-Wagner-O’Day (JWOD) Act, 41 U.S.C 8501-8506, to participate in the AbilityOne Program, and then to maintain qualification to participate, must certify that it will not use certificates authorized under section 14(c) of the Fair Labor Standards Act of 1938 (“14(c) certificates”) to pay employees on its AbilityOne contracts. Pursuant to the rule, individuals with disabilities employed by participating NPAs, and working on AbilityOne contracts, will earn the Federal minimum wage, the state minimum wage if higher than the Federal minimum wage, or the prevailing wage for contracts subject to the McNamara-O’Hara Service Contract Act. *See* 41 U.S.C 6107-6707.

This final rule applies to all contracting actions subject to the JWOD Act and its implementing regulations. This includes new contracts, extensions or renewals of existing contracts, and the exercise of options on existing contracts. The effective date for full compliance with this rule is **October 19, 2022**. However, if an NPA faces specific difficulties in raising wages, it may request up to a 12-month extension through SourceAmerica to be approved by the Commission.¹ Each request must contain, at a minimum, the following information:

1. The specific reasons for the request.
2. The number of employees impacted by the rule change. Include the current wage of each employee and the target wage once compliance has been achieved.
3. Identify the specific AbilityOne contracts impacted by compliance. Provide the periods of performance for each contract (including option years) and the number of impacted employees assigned to each contract.
4. Extension period being requested (up to 12 months).
5. A detailed corrective action plan, explaining the steps the requestor intends to take to achieve full compliance. If the requestor plans to take steps other than raising employee wages (i.e., terminate employment, reduced hours, etc.), please explain the steps taken to minimize the impact on the employee (i.e., planned retirement, benefits counseling, etc.).

¹ The Commission has authority to grant such extensions under 41 CFR 51-4.5.

6. If an NPA has not currently enrolled in SourceAmerica's 14(c) assistance program, it must do so prior to requesting an extension. **Enrollment in this program is mandatory. Any requestor that has not enrolled in the program will not be granted an extension.**
7. Any other considerations the requestor would like the Commission to consider.

All extension requests must be received **NLT September 19, 2022**. An NPA may not be considered for any additional Procurement List additions while an extension request is being considered or after a request has been approved until corrective action has been completed. If an NPA cannot establish compliance at the conclusion of the corrective action period, it will have to requalify for the Program, unless additional relief is granted by the Commission because of actions beyond the NPA's control or highly unusual conditions impacting compliance.

SourceAmerica will track all extension requests and keep the Commission informed. If you have any questions or seek additional clarification on a specific issue related to the procedure for submitting a request or the standards outlined in this memorandum, please contact your SourceAmerica representative for additional guidance. For all other matters, please contact John Konst, Director, Oversight and Compliance, at (703) 798-6198 or jkonst@abilityone.gov.