



U.S. AbilityOne Commission Proposes Rule to Prohibit Payment of Subminimum Wages on AbilityOne Contracts

WASHINGTON, D.C., October 7, 2021 – The U.S. AbilityOne Commission (Commission) announced today that it will begin a formal rulemaking process to prohibit payment of subminimum wages on contracts within the AbilityOne Program.

Payment of subminimum wages is permitted under Section 14(c) of the Fair Labor Standards Act (FSLA) of 1938, which states that workers whose disabilities impair their earning or productive capacity may be paid wage rates below the Federal minimum wage rate if the employer first obtains an authorizing certificate from the Secretary of Labor.

The Commission has concluded that subminimum wages are not consistent with the Commission’s determination of a qualified nonprofit agency for contracts under the Javits-Wagner-O’Day (JWOD) Act and the AbilityOne Program it authorizes.

The Notice of Proposed Rulemaking will propose adding a new qualification requirement for nonprofit agencies seeking to qualify or maintain qualifications to participate in the AbilityOne Program. Specifically, the rule would require each nonprofit agency to certify that it will not pay subminimum wages on all contracts awarded, extended (other than through the exercise of an option) or renewed after the effective date of the rule.

A pre-publication draft version of the proposed rule was posted on the Commission website today, and has been submitted for publication in the Federal Register within the next few days.

“It’s past time to end the payment of subminimum wages in the AbilityOne Program and to ensure all AbilityOne employees are paid fairly for their work,” said Commission Chairperson Jeffrey A. Koses. “We’ve worked closely with our colleagues in the Departments of Labor and Education and other agencies, and believe we’ve put together a good proposed rule that will make a difference in the lives of Americans who are blind or have significant disabilities. The proposed rule shows the Commission’s commitment to big things, and we see it as a springboard for further modernization.”



“Moving from a voluntary process of ending payment of subminimum wage to a mandatory requirement is a significant step,” said Commission Vice Chairperson Chai Feldblum. “Wages paid for work send a message of how that work is valued and the work performed by people with disabilities should be valued equally with others. At the same time, we are committed to addressing all issues that may arise as a result of this requirement and we therefore look forward to receiving public comments as part of the rulemaking process.”

The Commission has advocated for ending the payment of subminimum wages in the AbilityOne Program, beginning in 2016 with its [“Declaration in Support of Minimum Wage for All People Who Are Blind or Have Significant Disabilities.”](#) In 2019, the Commission [called on](#) SourceAmerica, one of its two designated Central Nonprofit Agencies, to initiate a series of actions to achieve the goal of all SourceAmerica-associated nonprofit agencies paying at least the Federal minimum wage, or state minimum wage if higher, on AbilityOne contracts.

National Industries for the Blind, the AbilityOne Program’s other Central Nonprofit Agency, reports that all of its associated nonprofit agencies pay the full applicable minimum wage or higher on all AbilityOne contracts.

About the U.S. AbilityOne Commission

The AbilityOne Program is administered by the U.S. AbilityOne Commission, the operating name of the Committee for Purchase From People Who Are Blind or Severely Disabled. The Commission is an independent Federal agency composed of 15 Presidential appointees: 11 represent Federal agencies, and four serve as private citizens who are knowledgeable about employment barriers facing people who are blind or have significant disabilities. The Commission designates Central Nonprofit Agencies (CNAs) to facilitate the employment of people who are blind or have significant disabilities. The Commission currently executes the AbilityOne Program based on Cooperative Agreements with two CNAs: National Industries for the Blind and SourceAmerica. CNA Cooperative Agreements with the Commission include performance work statements, quality assurance surveillance plan deliverables, and agreement clauses. CNAs are private entities.

About the AbilityOne Program

The AbilityOne Program is one of the largest sources of employment in the United States for people who are blind or have significant disabilities. More than 42,000 people who are blind or have significant disabilities, including more than 3,200 veterans, are employed nationwide at nearly 500 nonprofit agencies from Maine to Guam. AbilityOne provided nearly \$4 billion in products and services to the Federal Government in fiscal year 2020. The Program operates at more than 1,000 locations, representing 40 government agencies, including more than 150 Base Supply Centers at military and government installations.

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