DIRECTIVE

NUMBER: 25-01
September 10, 2025

SUBJECT: Strengthening and Ensuring Consistency of AbilityOne Program Compliance with Domestic Sourcing Laws

REFERENCES:

(a) 41 U.S.C. §§ 8501-8506, Javits-Wagner-O'Day (JWOD) Act
(b) 41 U.S.C. §§ 8301-8305, Buy American Act of 1933 (BAA)
(c) Public Law 117-58, Infrastructure Investment and Jobs Act (IIJA), Subtitle C of Title IX of Division G, Sec. 70951-70953 (Make PPE in America Act)
(d) 19 U.S.C. §§ 2501-2581, Trade Agreements Act (TAA)
(e) 41 C.F.R. Chapter 51, Committee for Purchase From People Who Are Blind or Severely Disabled
(f) Presidential Memorandum *America First Trade Policy*, dated January 20, 2025

1. PURPOSE: To reaffirm the U.S. AbilityOne Commission's (Commission) commitment to supporting President Donald J. Trump's *America First Trade Policy* by clarifying the Commission's position regarding strengthening and ensuring consistency of AbilityOne Program compliance with domestic sourcing laws.

2. APPLICABILITY AND SCOPE: AbilityOne Central Nonprofit Agencies (CNAs) and all Nonprofit Agencies (NPAs)

3. GUIDANCE: On January 20, 2025, the President issued a Presidential Memorandum titled *America First Trade Policy* "that promotes investment and productivity, enhances our Nation's industrial and technological advantages, defends our economic and national security, and — above all — benefits American workers, manufacturers, farmers, ranchers, entrepreneurs, and businesses."

   The Commission has therefore aligned its mission focus to achieve the President's objectives. This alignment starts with ensuring that the products and services on the AbilityOne Procurement List (PL) fully comply with all applicable domestic sourcing laws, particularly the BAA, the Make PPE in America Act, and the TAA.

   The BAA requires Federal agencies to procure items that are domestic end products. The BAA is implemented at FAR 25.1, which states that, "[e]xcept as provided in 25.103, acquire only domestic end products for public use inside the United States." (FAR 25.102.)

A domestic end product is either an "unmanufactured end product mined or produced in the United States;" or "[a]n end product manufactured in the United States, if (i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent [today 65 percent] of the cost of all its components" or "(ii) The end product is a COTS [commercially available off-the-shelf] item."

The subpart addressing exceptions, FAR 25.103, contains no blanket carve-out for AbilityOne products. **Notwithstanding any prior guidance, the Commission is clearly communicating that AbilityOne contractors must commit to providing BAA compliant products unless a valid exception applies.**[1] When AbilityOne products are sold to Federal customers, those products should enable the customers to comply with the BAA.

The TAA is implemented at FAR 25.401 and permits the Federal government to waive the BAA and purchase items from certain countries, such as those with whom the United States holds trade agreements or countries meeting the "least developed" standard. (FAR 25.402.) **While the TAA excepts AbilityOne contracts, the Commission's position is that NPAs should nonetheless make a good faith effort to comply with the TAA to the maximum extent practicable.**

The Make PPE in America Act applies to three agencies: VA, HHS, and DHS. The Act seeks to create a stockpile of domestically produced PPE by requiring the secretaries of these three agencies to establish long-term contracts for "personal protective equipment, including the materials and components thereof, that is grown, reprocessed, reused, or produced in the United States." Congress unambiguously requires that the three agencies only purchase PPE that is made in the United States. The statute contains exemptions for items whose materials have been determined to be unavailable under FAR Part 25.104. Additionally, an exception exists when one of the secretaries determines that the PPE in question "cannot be procured as, and when, needed at United States market prices."

The Make PPE in America Act, however, contains no blanket exception for AbilityOne products. The Commission concludes that PPE produced outside the United States should not be considered essentially the same as PPE solicited by a secretary to comply with the Act. **As such, AbilityOne contractors must comply with the Make PPE in America Act, unless a valid exception exists**.

Along with the Commission's focus on strengthening and ensuring consistency of AbilityOne Program compliance with domestic sourcing laws, the Commission is reviewing health and safety standards that protect AbilityOne participating employees and AbilityOne products users from "forever chemicals" (i.e., PFAS). The Commission strongly encourages NPAs to proactively review their supply chains and ensure they are using PFAS-free materials, components, and end products.

4. EFFECTIVE DATE AND IMPLEMENTATION: This Directive is effective immediately. Within 120 days, the CNAs will provide written feedback to the Commission Chairperson

[1] Valid exceptions include the following: (a) Public Interest, (b) Nonavailability, (c) Unreasonable Cost, (d) Commissary Resale, and (e) Information technology that is a commercial product.

regarding CNA and NPA implementation of this Directive, and any recommendations needed to facilitate and maintain full compliance with this Directive.

5. SUPERSESSION: To the extent that prior guidance may conflict with the guidance described at Section 3, such guidance is hereby rescinded.

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Chairperson and Presidential Appointee