

Definitions in Memorandum of Understanding Between U.S. AbilityOne Commission and Rehabilitation Services Administration (RSA)

AbilityOne Commission is an independent Federal agency (whose statutory name is the Committee for Purchase From People Who Are Blind or Severely Disabled) that administers the AbilityOne Program, established in 1938. Pursuant to the Javits-Wagner-O'Day (JWOD) Act, the Commission, supported by a full-time staff, consists of 15 Presidential appointees: 11 represent Federal agencies and four are private citizens knowledgeable about employment challenges faced by people who are blind or have significant disabilities. The Commission's mission is to provide employment opportunities for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government. 41 C.F.R. §§ 51-2.1-2.2.

AbilityOne Program means the program authorized by the JWOD Act to increase employment and training opportunities for persons who are blind or have other severe disabilities through Government purchasing of products and services from nonprofit agencies employing these persons. 41 C.F.R. § 51.1-3.

Cafeteria means a food dispensing facility capable of providing a broad variety of prepared foods and beverages (including hot meals), primarily through the use of a line where the customer serves himself from displayed selections. A cafeteria may be fully automatic, or some limited waiter or waitress service may be available and provided within a cafeteria and table or booth seating facilities are always provided. 34 C.F.R. §§ 395.1(d), 395.33.

Central nonprofit agency means an agency organized under the laws of the United States or of any State, operated in the interest of the blind or persons with other severe disabilities, the net income of which does not incur in whole or in part to the benefit of any shareholder or other individual, and designated by the Commission to facilitate the distribution (by direct allocation, subcontract, or any other means) of orders of the Government for commodities and services on the Procurement List among nonprofit agencies employing persons who are blind or have other severe disabilities, to provide information required by the Commission to implement the JWOD Program, and to otherwise assist the Commission in administering these regulations as set forth herein by the Commission. The Commission identifies its current designated CNAs at https://www.abilityone.gov/abilityone_program/who_works.html. 41 C.F.R. § 51.1-3.

Contracting Activity means any element of an entity of the Government that has responsibility for identifying and/or procuring Government requirements for products or services. Components of a contracting activity, such as a contracting office and an ordering office, are incorporated in this definition, which includes all offices within the definitions of "contracting activity," "contracting office," and "contract administration office" contained in the Federal Acquisition Regulation, 48 CFR 2.101. 41 C.F.R. § 51.1-3.

Federal property means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the U.S. Postal Service), or any other instrumentality wholly owned by the United

States, or by any department or agency of the District of Columbia or any territory or possession of the United States. 34 C.F.R. § 395.1(g).

Government and *Entity of the Government* mean any entity of the legislative branch or the judicial branch, any executive agency, military department, Government corporation, or independent establishment, the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces. 41 C.F.R. § 51.1-3.

Individuals who are blind or Blind means people who, after examination by a physician skilled in diseases of the eye or by an optometrist, whichever such people shall select, has been determined to have

- (1) Not more than 20/200 central visual acuity in the better eye with correcting lenses, or
- (2) An equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

34 C.F.R. § 395.1(c); 41 C.F.R. § 51.1-3 (addresses subparagraphs (1) and (2)).

Javits-Wagner-O'Day Act is enacted for the purpose of increasing employment and training opportunities for persons who are blind or have other severe disabilities by requiring the Federal Government purchase of products and services published on the Commission Procurement List through appropriate channels from nonprofit agencies employing persons who are blind or have other severe disabilities designated by the Commission; recommendations to the Commission of new commodities and services suitable for addition to the Procurement List; and cooperation with the Commission and the central nonprofit agencies in the provision of such data as the Commission may decide is necessary to determine suitability for addition to the Procurement List. 41 U.S.C. §§ 8501-8506; 41 C.F.R. § 51.1-1.

Other severely disabled and severely disabled individuals (hereinafter persons with significant disabilities) mean a person other than a blind person who has a severe physical or mental impairment (a residual, limiting condition resulting from an injury, disease, or congenital defect) which so limits the person's functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills) that the individual is unable to engage in normal competitive employment over an extended period of time.

- (1) Capability for normal competitive employment shall be determined from information developed by an ongoing evaluation program conducted by or for the nonprofit agency and shall include as a minimum, a preadmission evaluation and a reevaluation at least annually of each individual's capability for normal competitive employment.
- (2) A person with a severe mental or physical impairment who is able to engage in normal competitive employment because the impairment has been overcome or the condition has been substantially corrected is not considered to have a "significant disability" within the meaning of the definition. 41 C.F.R. § 51.1-3.

License means a written instrument issued by the State licensing agency to a blind person, authorizing such person to operate a vending facility on Federal or other property. 34 C.F.R. § 395.1(i).

Nonprofit agency means a nonprofit agency for the blind or a nonprofit agency employing persons with severe disabilities, as appropriate. 41 C.F.R. § 51.1-3; see also participating nonprofit agency, qualified nonprofit agency employing persons with significant disabilities, and qualified nonprofit agency for the blind 41 C.F.R. § 51.1-3.

Permit means the official approval given a State licensing agency by a department, agency, or instrumentality in control of the maintenance, operation, and protection of Federal property or person in control of other property, whereby the State licensing agency is authorized to establish a vending facility. 34 C.F.R. §§ 395.1(o), 395.34, 395.35.

Procurement List means a list of products (including military resale items) and services which the U.S. AbilityOne Commission has determined to be suitable to be furnished to the Government by nonprofit agencies for the blind or nonprofit agencies employing persons with significant disabilities pursuant to the JWOD Act and the AbilityOne Commission regulations. 41 C.F.R. § 51.1-3.

Randolph-Sheppard Act is enacted for the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, authorizes blind persons licensed by State licensing agencies to operate vending facilities on any Federal or other property. 20 U.S.C., § 107, *et seq.*

Rehabilitation Services Administration (RSA) is a component of the [Office of Special Education and Rehabilitative Services \(OSERS\)](#) within the [U.S. Department of Education](#). RSA provides leadership and resources to assist state and other agencies in providing vocational rehabilitation and other services to individuals with disabilities to maximize their employment, independence, and integration into the community and the competitive labor market. Under the Randolph-Sheppard Act, the Secretary of Education ensures that RSA is the principal agency for carrying out the Act. 20 U.S.C. § 107a(a).

State licensing agency (SLA) means the State agency designated by the Secretary of the U.S. Department of Education under the Randolph-Sheppard Act and its implementing regulations to issue licenses to blind persons for the operation of vending facilities on Federal and other property and to implement the Randolph-Sheppard Vending Facility program in the State. The SLA may only be the State vocational rehabilitation agency providing vocational rehabilitation services to the blind in the State. 34 C.F.R. §§ 395.1(v), 395.2, 395.3.

Vending Facility means automatic vending machines, cafeterias, snack bars, cart services, shelters, counters and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State within such State. 34 C.F.R. § 395.1(x)

Vendor means an individual who is blind and who has been licensed by the State licensing agency and who is operating a vending facility on Federal or other property. 34 C.F.R. § 395.1(aa).

Procedures for Applying the Randolph-Sheppard Act Priority for the Operation of a Vending Facility

When a Federal agency or an SLA becomes aware that an opportunity for the operation for a vending facility is available or should be available under the provisions of 34 C.F.R. §§ 395.30 or 395.31, notification shall be made to the SLA or the Federal agency and the parties must follow the procedures in 34 C.F.R. §§ 395.34 and 395.35 for a permit if the vending facility is anything other than a cafeteria and the procedures in 34 C.F.R. § 395.33 if the vending facility is a cafeteria.

Procedures for Applying the Javits-Wagner-O'Day Act Priority in the Acquisition of Products or Services on the AbilityOne Procurement List

Federal agencies that require products or services on the AbilityOne Procurement List shall procure those products or services from a source authorized by the U.S. AbilityOne Commission in accordance with 41 U.S.C. 8504 and Federal Acquisition Regulation (FAR) Subpart 8.7, and at the price established by the Commission. To see the AbilityOne Procurement List and a list of AbilityOne Authorized Distributors, visit the Commission's website at www.abilityone.gov.