

Procurement List suitable products and services that government agencies must then procure from a qualified nonprofit agency (NPA). Federal agencies do not have to follow the normal government competitive procedures when acquiring Procurement List items from an authorized NPA, making it more efficient for both the Federal agencies and the qualified NPA.²

For an NPA to be eligible to provide goods or services on the Procurement List, it must be authorized by the Commission as qualified to serve as an authorized source in the program.

II. The Direct Labor Hour Ratio Mandate

To serve as an authorized source, an NPA must, at a minimum, satisfy the statutory conditions described at 42 U.S.C. 8501, paragraphs 6 and 7. Of note, part (C) of both paragraphs require that 75 percent of the direct labor hours required to produce or provide products or services must be performed by individuals who are blind or significantly disabled.

In calculating the 75 percent direct labor hour ratio, an NPA is required to count not only the DLH performed in support of Procurement List items, but pursuant to the statute, all direct labor performed by every individual employed by the NPA.³ The statute defined direct labor as all work required to prepare, process, and pack a product, or work that directly relates to the performance of the service. The statute specifically excludes supervision, administration, inspection, or shipping as direct labor.

This means that when calculating the 75 percent direct labor hour ratio, an NPA excludes “indirect labor” hours—*i.e.*, “Work that supports the manufacturing process or delivery of services but does not directly produce or add value to the products or services sold to a customer. This includes supervision, administration, inspection, and shipping.”⁴ Historically, these exclusions were perceived as helpful because they reduce the number of hours an NPA must count toward the 75% direct labor hour ratio. However, when an employee who is blind or has a significant disability moves from a direct labor hour position to an indirect labor hour position, the NPA cannot count that employee’s indirect labor hours toward the 75 percent direct labor

hour ratio—a situation that potentially creates a disincentive for the NPA to promote that employee to a supervisory or administrative position.

The Commission believes that many “indirect labor” task or positions could serve as an opportunity to promote employee career advancement. However, there is little incentive for an NPA to create a framework that actively encourages direct labor hour employees to move to indirect labor hour positions if doing so compromises the NPA’s ability to remain in the Program by impeding its ability to meet the Program’s direct labor hour ratio requirement.

III. Request for Information

As noted above, section 8501, paragraphs 6 and 7 of the JWOD Act list the qualifications for an NPA to serve as an authorized source for a product or service on the Procurement List. The Commission’s interpretation of the statutory language is promulgated in the Code of Federal Regulations (CFR) at Title 41, Chapter 51. More specifically, the CFR adopts the JWOD Act’s 75 percent direct labor hour ratio requirement and adds a list of additional qualifications under Part 51–4. In the CFR at Part 51–1.3, the Commission does not elaborate on the statutory direct labor hour ratio requirement or the definition of direct labor.

Commission policies are generally derived from Commission regulations grounded in statute. As such, the authority to deviate from the 75 percent direct labor hour ratio requirement, or to redefine what counts as direct labor, is expressly limited by statute. Notwithstanding these limitations, the Commission is exploring ways to leverage its regulatory and sub-regulatory authority to encourage employment opportunities that promote career mobility without conflicting with the JWOD Act. This RFI is designed to collect information for that purpose, through the questions below.

IV. Questions

(1) How could direct labor be defined to expand the types of tasks or positions that can be counted as direct labor without conflicting with the definition in the JWOD Act? The purpose of this change would include increasing the number of direct labor hours that an NPA could count toward meeting the direct labor hour ratio requirement.

(2) In what ways could indirect labor categories (*e.g.*, supervision, administration, inspection, or shipping) be defined to maximize employee career development without adversely

impacting the ratio requirement, and without a statutory change?

(3) What types of jobs or tasks traditionally categorized as “indirect labor” in accordance with the JWOD Act fall outside of “supervision, administration, inspection, or shipping”?

(4) With respect to meeting the direct labor hour ratio requirement, describe any challenges or successes associated with facilitating or supporting AbilityOne employees’ mobility into jobs outside the Program; particularly, whether such mobility causes challenges with ratio compliance, and if applicable, the steps taken to mitigate such challenges.

Michael R. Jurkowski,

Director, Business Operations.

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CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Wednesday, September 25, 2024—10 a.m.

PLACE: Meeting will be held remotely and in person at 4330 East West Highway, Bethesda, Maryland, Room 420.

STATUS: Commission Meeting—Closed to the Public.

MATTERS TO BE CONSIDERED:

Meeting Matter: Briefing Matter.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: September 18, 2024.

Alberta Mills,

Commission Secretary.

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DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 23–28]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

² Federal Acquisition Regulation 8.7, Acquisition From Nonprofit Agencies Employing People Who Are Blind or Severely Disabled.

³ 41 U.S.C. 8501(6)(C) and (7)(C).

⁴ U.S. AbilityOne Commission Policy 51.404, Direct Labor Hour Ratio Requirements, effective October 1, 2024.