



October 14, 2025

Federal Acquisition Regulatory (FAR) Council
Office of Federal Procurement Policy Office of Management and Budget
Washington, DC 20503

Re: Federal Acquisition Regulation (FAR) Overhaul - FAR Part 8

Dear FAR Council:

Thank you for the opportunity to provide feedback on the Revolutionary FAR Overhaul and specifically FAR Part 8 - Required Sources of Supplies and Services. The Alliance for Expanding America's Workforce (AEAW) is a nationwide coalition of organizations dedicated to expanding employment opportunities for people with disabilities by modernizing the federal government's procurement process, direct hiring practices, and policies. As such, we are pleased to provide feedback as progress is made "Restoring Common Sense to Federal Procurement" through the first-ever comprehensive overhaul of the FAR.

We commend the inclusion of a dedicated Subpart 8.2, "Acquisition From AbilityOne Participating Nonprofit Agencies," as this provides critical clarity for federal contracting officers on the program's mandatory source status. We are also pleased with the addition of language clarifying that agencies may propose additions of products and services to the AbilityOne Procurement List (PL). This succinct and more streamlined version is easier to read and understand than the previous FAR Part 8.7. We are concerned, however, that in its current form, the proposed language for Subpart 8.2 does not go far enough to clearly communicate and reinforce the Government's long-standing objective to grow the AbilityOne Program's Procurement List (PL) and further its mission of creating employment opportunities for people who are blind or have significant disabilities. Accordingly, we recommend that the FAR Council adopt revised language in FAR Part 8 and in its Companion Guidance that provides clear directions to procuring agencies, encouraging the use of the AbilityOne Program in accordance with the JWOD ACT's implementing regulations.

The current overhaul language for FAR 8.201, "General," states that "Agencies may propose price development through the Commission, or propose additions to the Procurement List at any time through the AbilityOne Commission." We believe the use of the discretionary term "may propose" is too permissive and does not align with the foundational government policy for the program, to "increase employment and training opportunities for persons who are blind or have other severe



disabilities through the purchase of commodities and services" from qualified nonprofit agencies," as stated at 41 C.F.R. § 51-1.1(a).

The Code continues in subsection (b), addressing proactive engagement, stating that it is "the policy of the Committee to encourage all Federal entities and employees to provide the necessary support to ensure that the JWOD Act is implemented in an effective manner," including "recommendations to the Committee of new commodities and services for addition to the Procurement List." This regulation clarifies that an agency's responsibility is not limited to reacting to the list by making a purchase when a need arises. Instead, the government's avowed policy is affirmative encouragement to federal agencies to help grow the list as a form of "necessary support" for the program's effective implementation. This proactive requirement aligns with the direction in 41 C.F.R. § 51-4.4(a), which encourages "Contracting activities to assist the Committee...in identifying suitable commodities and services."

In addition, there is significant focus on "required use" contracts and a new requirement in FAR Part 8.104. To uphold the JWOD Act's foundational purpose of expanding employment, agencies should be required to perform proactive market research and engage the Central Nonprofit Agencies (CNAs) to explore AbilityOne capabilities *before* committing an acquisition requirement to a long-term "required use" contract. This ensures that the government consistently prioritizes its statutory mission before entering into general mandated contracts. The FAR Overhaul correctly identifies that the statutory mandate of JWOD dictates that the PL maintains priority over *any* other supplier or policy vehicle for designated supplies and services; therefore, this statutory priority must account for the purpose of the PL and not simply the contracts identified on it. The intent of the PL is to identify services and supplies that unequivocally trump any new "required use" contract that sells similar commercial services and products. In other words, the introduction of a new class of "required use" contracts under the proposed FAR 8.104(a) necessitates absolute clarity regarding their priority against the AbilityOne Program.

To ensure the updated FAR fully supports the program's statutory purpose, we propose the following specific revisions. These changes would align the regulation with its existing statutory and regulatory framework and provide clearer instruction to contracting officers, promoting the growth of the PL.

Proposed Change 1: Replace existing language with a more hortatory phrase.

- **Far Overhaul Language - FAR 8.201:** " The AbilityOne Commission has sole authority to set the price and to authorize or deauthorize sources of supply. Agencies may propose price development through the Commission, or propose additions to the Procurement List at any time through the AbilityOne Commission."
- **Recommended Language (Replacement): "(a) Authority.** The AbilityOne Commission has sole authority to set the price and to authorize or deauthorize sources of supply.



Agencies are encouraged to proactively identify and propose new commodities and services for addition to the Procurement List at any time through the AbilityOne Commission, consistent with the objective of increasing employment opportunities for people who are blind or have other severe disabilities. (41 C.F.R. § 51-1.1(a)).

Proposed Change 2: Add a new, explicit paragraph to FAR 8.201 to formalize proactive encouragement by contracting activities.

- **Add the following as a new subparagraph to FAR 8.201: "(b) Identification and Referral of Items to the Procurement List.** Contracting activities are encouraged to assist the AbilityOne Commission and the central nonprofit agencies in identifying commodities and services for addition to the Procurement List. For items that can be furnished by a nonprofit agency, the contracting activity should refer the candidate commodities and services to the Commission or a central nonprofit agency. This proactive assistance will help the Commission attain its objective of increasing employment opportunities for people who are blind or have other severe disabilities".

Proposed Change 3: Reinforce Priority Over "Required Use" Contracts.

- **Add the following as a new subparagraph to FAR 8.201: "(c) Priority Over Required Use Contracts.** Notwithstanding any "required use" contract mandates established under 8.104(a), the statutory mandatory purchase requirement for supplies and services on the Procurement List (PL) from AbilityOne participating nonprofit agencies (41 U.S.C. chapter 85) shall take legal precedence. Furthermore, to maximize the program's objective of creating employment opportunities, contracting activities shall proactively engage with the AbilityOne Commission or the central nonprofit agencies to assess AbilityOne suitability prior to committing a supply or service requirement to any "required use" contract, thereby exploring opportunities for Procurement List additions."

Another area of concern is the potential for agencies to misuse the "purchase exception" process, which is outlined at FAR 8.202(b). The original FAR 8.7 language for purchase exceptions was narrowly tailored, stating that exceptions would be granted promptly when nonprofit agencies cannot provide supplies or services in the time required or when the required quantity cannot be produced economically. The overhauled FAR language 8.2 should maintain the clear, specific limitations on when an exception can be granted and explicitly state that a purchase exception is not an alternative to the mandatory source requirement. To ensure the integrity of the program, we recommend strengthening this section to reinforce that exceptions are only to be used under strict circumstances of economic unfeasibility or inability to meet delivery deadlines, preventing agencies from requesting exceptions for any other reason.

Proposed Change 4: Clarify and strengthen the language on purchase exceptions.



- **Far Overhaul Language - 8.202(b): Purchase exception.** Agencies may submit a request to the AbilityOne Commission, or the appropriate central nonprofit agency, for a waiver to the Procurement List requirement. If the waiver is approved, agencies may fulfill their requirement with a commercial item. No other provision of the FAR shall be construed as permitting an exception to the mandatory purchase of items on the Procurement List.
- **Recommended Language (Replacement– 8.202(b): Purchase exception.** Agencies may submit a request to the AbilityOne Commission or the appropriate central nonprofit agency for a purchase exception to the Procurement List requirement when an AbilityOne participating nonprofit agencies cannot provide the supplies or services within the time required or when the required quantity cannot be produced or provided economically. If the purchase exception is approved, agencies may fulfill their requirement with a commercial item. No other provision of the FAR shall be construed as permitting an exception to the mandatory purchase of items on the Procurement List.

These changes would not create new regulatory burdens but would instead clarify and strengthen the FAR's intent, ensuring that the federal acquisition community actively contributes to the growth of the AbilityOne Program. Aligning the FAR with statute and the CFR is a critical step toward modernizing federal procurement while reinforcing its foundational support for employment of the discouraged workforce.

We believe that integrating these changes into the FAR is essential. They must also be clearly and consistently presented in all supporting practitioner guides or companions. These guides are vital for developing a knowledgeable and capable acquisition workforce, which is key to maximizing the FAR overhaul's impact. AEA is concerned with the minimal approach of the Version 1.0 Companion guide. The current section FC8.103, while correctly identifying AbilityOne as a mandatory source, suffers from critical strategic and operational ambiguities that limit a contracting official's ability to effectively leverage the program. The Practitioner's Guide should be easy to find, clearly organized, and provide specific points of contact with detailed, practical guidance for support.

AbilityOne is a unique, mandatory program rooted in statute, and unlike other procurement vehicles, it completely bypasses traditional competition for items on the Procurement List. For a complex, high-priority program, the current guidance is overly passive, using discretionary terms that diminish the program's mandatory nature and fail to communicate crucial operational details.

Once again, The Alliance for Expanding America's Workforce appreciates the important work being done by the FAR Council and is grateful for the opportunity to provide feedback on the Revolutionary FAR Overhaul. We are available to answer any questions or provide further clarification regarding our feedback. Please do not hesitate to contact us at Info@ExpandingAmericasWorkforce.org.