



COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY
DISABLED

41 CFR Parts 51-1

Substitution of Term in a Definition; Addition and Adoption of the Use of Specific
Interchangeable or Synonymous Terms

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Final rule.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled (the Committee) administers the AbilityOne[®] Program pursuant to the authority of the Javits-Wagner-O'Day (JWOD) Act. The Committee is substituting the term “disabled” for “handicapped” in a term defined in its regulation. Additionally, the Committee has deliberated and unanimously voted to approve the use of “severely” disabled and “significantly” disabled as interchangeable or synonymous terms when referring to people who are severely disabled within the AbilityOne Program. The Committee’s approval to use “severely” and “significantly” as interchangeable or synonymous terms within the AbilityOne Program specifically does not make any change to the definition of “severely disabled individual” in the JWOD Act or expand the population of individuals served within the AbilityOne Program.

EFFECTIVE DATE: September 21, 2012.

ADDRESS: The Committee office is located at 1421 Jefferson Davis Highway, Suite 10800, Arlington, VA 22202-3259.

FOR FURTHER INFORMATION CONTACT: Dennis Lockard, General Counsel, by telephone (703)603-7740, or by facsimile at (703)603-0030, or by mail at the Committee for Purchase From People Who Are Blind or Severely Disabled, 1421 Jefferson Davis Hwy, Suite 10800, Arlington, VA 22202-3259.

SUPPLEMENTARY INFORMATION:

I. Background

The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) administers the AbilityOne® Program pursuant to the authority of the Javits-Wagner-O’Day (JWOD) Act (41 U.S.C. 8501et seq.). The AbilityOne Program provides employment opportunities for people who are blind or have other severe disabilities through the manufacture and delivery of products and services to the Federal Government. 41 U.S.C. § 8503(d) authorizes the Committee to make rules and regulations necessary to carry out the purpose of the Act and the Committee has done so at 41 C.F.R. Chapter 51. Within the AbilityOne Program, the term “severely disabled” is used to describe people with severe disabilities who qualify to participate in the program; however, within the Committee’s regulation, the terms *other severely handicapped and severely handicapped individuals* are used to define persons with severe disabilities. The Committee is amending its regulation to correct the terminology and remove references to “handicap” or “handicapped” in the list of definitions.

Additionally, the Committee is aware that the term “severely disabled” is no longer the description of choice of all disability advocates and terms such as “significantly disabled” have gained acceptance within the disability communities. The Committee is also cognizant that the term “individual with a significant disability” (instead of *severe disability*) was included and defined in the 1998 reauthorization of the Rehabilitation Act of 1973 and the term is being included in other congressional actions and agency regulations. In conjunction with the broader use of the terms “significant” disability and “significantly” disabled, the AbilityOne Program’s participants, stakeholders and supporters have increasingly accepted and used these terms within the program. Consequently, in order to ensure alignment and consistency throughout the AbilityOne Program, the Committee has voted to permit use of the terms “significant” or “significantly” as interchangeable or synonymous with “severe” or “severely” when describing individuals with severe disabilities who qualify to participate in the AbilityOne Program. The action by the Committee to use the terms interchangeably or synonymously does not, however, result in any change to the definition or eligibility (either expand or narrow) of the population served in the AbilityOne Program under the authority of the JWOD Act. In addition, this action does not make any change to the statutory name of the Committee or permit the use of the synonymous term when describing the Committee.

The Committee has issued a final rule because this rule does not have a significant effect beyond the internal operating procedures of the AbilityOne Program and does not have a significant cost or administrative impact on others not associated with the AbilityOne Program. Therefore, public comment is not required. This interpretive rule is action by the Committee to ensure that appropriate terminology is used within the AbilityOne Program to describe a significant portion of the people who are served under this program.

II. Statutory and Executive Order Reviews

Executive Orders 12866 and 13563 direct agencies to assess costs, benefits and burdens of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effective, distributive impacts, and equity). This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804; therefore, Congressional notification is not required.

Regulatory Flexibility Act: Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

Administrative Procedure Act: The Committee finds under 5 U.S.C. 553(b)(3)(A) that the statute does not apply to interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice. This final rule simply substitutes a word in a term defined in the regulation and authorizes the use of specific interchangeable or synonymous terms when describing individuals who are eligible to participate in the AbilityOne Program. Further, pursuant to 5 U.S.C. 553 (b)(3)(A), this rule of agency organization, procedure and practice is not subject to the requirement to provide prior notice and an opportunity for public comment.

The Committee also finds that the 30-day delay in effectiveness, required under 5 U.S.C. 553(d), is inapplicable because this rule is not a substantive rule.

Paperwork Reduction Act of 1995: The Committee has determined that the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., does not apply because this rule does not contain any information collection requirements that require approval of OMB.

List of Subjects in **41 CFR Part 51-1**

Government procurement, Individuals with disabilities.

For the reasons stated in the preamble, the Committee for Purchase From People Who Are Blind or Severely Disabled amends 41 CFR Part 51-1 as set forth below:

41 CFR PART 51-1 – GENERAL

1. The authority for 41 CFR part 51-1 continues to read as follows:

Authority: 56 FR 48976, Sept. 26, 1991, unless otherwise noted.

2. Amend § 51-1.3 by amending the heading of the definition “*Other severely handicapped and severely handicapped individuals*” by removing the word “handicapped” and adding the word “disabled” in its place, and adding the definition “*Severely disabled individual; Severe disability; Significantly disabled individual; Significant disability*” to read as follows:

§ 51-1.3 Definitions.

Severely disabled individual; Severe disability; Significantly disabled individual; Significant disability; are interchangeable or synonymous terms used within the AbilityOne Program to describe persons with severe disabilities who qualify to participate in the AbilityOne Program.

III. Approval Authority

The Executive Director of the Committee has approved the publication of this notice and authorized the undersigned to sign and submit the document to the Office of the Federal Register.

Dated: September 18, 2012

Barry S. Lineback

Director, Business Operations

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