

## Javits-Wagner-O'Day Act (41 U.S.C. 46-48c)

The Javits-Wagner-O'Day (JWOD) Act appears in Title 41 of the United States Code, Sections 46 through 48c. This document gives the current legislative language of the JWOD Act with references to the applicable U.S.C. sections. Footnotes provide the citation for Public Laws related to the AbilityOne Program from its start in 1938 through to the last amendment in 1994.

Current Federal Regulatory Plan for the Committee for Purchase From People Who Are Blind or Severely Disabled can be located at [RegInfo.gov](http://RegInfo.gov) by selecting the agency.

### ***Javits-Wagner-O'Day Act, Section 1 (41 U.S.C. § 46)***

#### **§ 1. Committee for Purchase from People Who Are Blind or Severely Disabled**

##### (a) Establishment

There is established a committee to be known as the Committee for Purchase From People Who Are Blind or Severely Disabled (hereafter in this Act referred to as the "Committee"). The Committee shall be composed of fifteen members appointed as follows:

(1) The President shall appoint as a member one officer or employee from each of the following: The Department of Agriculture, the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Education, the Department of Commerce, the Department of Veterans Affairs, the Department of Justice, the Department of Labor, and the General Services Administration. The head of each such department and agency shall nominate one officer or employee in his department or agency for appointment under this paragraph.

(2)(A) The President shall appoint one member from persons who are not officers or employees of the Government and who are conversant with the problems incident to the employment of the blind.

(B) The President shall appoint one member from persons who are not officers or employees of the Government and who are conversant with the problems incident to the employment of other severely handicapped individuals.

(C) The President shall appoint one member of persons who are not officers or employees of the Government and who represent blind individuals employed in qualified nonprofit agencies for the blind.

(D) The President shall appoint one member from persons who are not officers or employees of the Government and who represent severely handicapped individuals (other than blind individuals) employed in qualified nonprofit agencies for other severely handicapped individuals.

##### (b) Vacancy

A vacancy in the membership of the Committee shall be filled in the manner in which the original appointment was made.

##### (c) Chairman

The members of the Committee shall elect one of their numbers to be Chairman.

(d) Terms

(1) Except as provided in paragraphs (2), (3), and (4), members appointed under paragraph (2) of subsection (a) of this section shall be appointed for terms of five years. Any member appointed to the Committee under such paragraph may be reappointed to the Committee if he meets the qualifications prescribed by that paragraph.

(2) Of the members first appointed under paragraph (2) of subsection (a) of this section:

(A) one shall be appointed for a term of three years,

(B) one shall be appointed for a term of four years, and

(C) one shall be appointed for a term of five years,

as designated by the President at the time of appointment.

(3) Any member appointed under paragraph (2) of subsection (a) of this section to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member appointed under such paragraph may serve after the expiration of his term until his successor has taken office.

(4) The member first appointed under paragraph (2)(B) of subsection (a) of this section shall be appointed for a term of three years.

(e) Pay and travel expenses

(1) Except as provided in paragraph (2), members of the Committee shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of services for the Committee.

(2) Members of the Committee who are officers or employees of the Government shall receive no additional pay on account of their service on the Committee.

(3) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of Title 5, United States Code.

(f) Staff

(1) Subject to such rules as may be adopted by the Committee, the Chairman may appoint and fix the pay of such personnel as the Committee determines are necessary to assist it in carrying out its duties and powers under this Act.

(2) Upon request of the Committee, the head of any entity of the Government is authorized to detail, on a reimbursable basis, any of the personnel of such entity to the Committee to assist it in carrying out its duties and powers under this Act.

(3) The staff of the Committee appointed under paragraph (1) shall be appointed subject to the provisions of Title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such Title 5 relating to classification and General Schedule pay rates.

(g) Obtaining official data

The Committee may secure directly from any entity of the Government information necessary to enable it to carry out this Act. Upon request of the Chairman of the Committee, the head of such Government entity shall furnish such information to the Committee.

(h) Administrative support services

The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

(i) Annual report

The Committee shall, not later than December 31 of each year, transmit to the President and to the Congress a report which shall include the names of the Committee members serving in the preceding fiscal year, the dates of Committee meetings in that year, a description of its activities under this Act in that year, and any recommendations for changes in this Act which it determines are necessary.

(June 25, 1938, c. 697, § 1, 52 Stat. 1196; June 23, 1971, Pub.L. 92-28, § 1, 85 Stat. 77; July 25, 1974, Pub.L. 93-358, § 1(1), (2), 88 Stat. 392, 393; Apr. 21, 1976, Pub.L. 94-273, § 8(2), 90 Stat. 378; Oct. 17, 1979, Pub.L. 96-88, Title V, § 509(b), 93 Stat. 695; June 13, 1991, Pub.L. 102-54, § 13(p), 105 Stat. 278; Oct 29, 1992, Pub.L. 102-569, Title IX, § 911(a), 106 Stat. 4486; Aug. 11, 1993, Pub.L. 103-73, Title III, § 301, 107 Stat. 736.)

***Javits-Wagner-O'Day Act, Section 2 (41 U.S.C. § 47)***

**§ 2. Duties and powers of Committee**

(a) Procurement list: publication in Federal Register; additions and removals

(1) The Committee shall establish and publish in the Federal Register a list (hereafter in this Act referred to as the "procurement list") of:

(A) the commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

(B) the services provided by any such agency,

which the Committee determines are suitable for procurement by the Government pursuant to this Act. Such list shall be established and published in the Federal Register before the expiration of the thirty-day period beginning on Aug. 1, 1971, and shall

initially consist of the commodities contained, on such date, in the schedule of blind-made products issued by the former Committee on Purchases of Blind-Made Products under its regulations.

(2) The Committee may, by rule made in accordance with the requirements of subsection (b), (c), (d), and (e) of section 553 of Title 5, United States Code, add to and remove from the procurement list commodities so produced and services so provided.

(b) Fair market price; price revisions

The Committee shall determine the fair market price of commodities and services which are contained on the procurement list and which are offered for sale to the Government by any qualified nonprofit agency for the blind or any such agency for other severely handicapped. The Committee shall also revise from time to time in accordance with changing market conditions its price determinations with respect to such commodities and services.

(c) Central nonprofit agency; designation

The Committee shall designate a central nonprofit agency or agencies 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 qualified nonprofit agencies for the blind or such agencies for other severely handicapped.

(d) Rules and regulations; blind-made products, priority

(1) The Committee may make rules and regulations regarding (A) specifications for commodities and services on the procurement list, (B) the time of their delivery, and (C) such other matters as may be necessary to carry out the purposes of this Act.

(2) The Committee shall prescribe regulations providing that:

(A) in the purchase by the Government of commodities produced and offered for sale by qualified nonprofit agencies for the blind or such agencies for other severely handicapped, priority shall be accorded to commodities produced and offered for sale by qualified nonprofit agencies for the blind, and

(B) in the purchase by the Government of services offered by nonprofit agencies for the blind or such agencies for other severely handicapped, priority shall, until the end of the calendar year ending December 31, 1976, be accorded to services offered for sale by qualified nonprofit agencies for the blind.

(e) Problems and production methods; study and evaluation

The Committee shall make a continuing study and evaluation of its activities under this Act for the purpose of assuring effective and efficient administration of this Act. The Committee may study (on its own or in cooperation with other public or nonprofit private agencies) (1) problems related to the employment of the blind and of other severely handicapped individuals, and (2) the development and adaptation of production methods which would enable a greater utilization of the blind and other severely handicapped individuals.

(June 25, 1938, c. 697, § 2, 52 Stat. 1196; June 23, 1971, Pub.L. 92-28, § 1, 85 Stat. 79.)

***Javits-Wagner-O'Day Act, Section 3 (41 U.S.C. § 48)***

**§ 3. Procurement requirements for Government; non-application to prison made products**

If any entity of the Government intends to procure any commodity or service on the procurement list, that entity shall, in accordance with rules and regulations of the Committee, procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such an agency for other severely handicapped if the commodity or service is available within the period required by that Government entity; except that this section shall not apply with respect to the procurement of any commodity which is available for procurement from an industry established under chapter 307 of Title 18, United States Code, and which, under section 4124 of such Title 18, is required to be procured from such industry.

(June 25, 1938, c. 697, § 3, 52 Stat. 1196; June 23, 1971, Pub.L. 92-28, § 1, 85 Stat. 80.)

***Javits-Wagner-O'Day Act, Section 4 (41 U.S.C. § 48a)***

**§ 4. Audit**

The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and other records of the Committee and of each agency designated by the Committee under section 2(c) of this Act. This section shall also apply to any qualified nonprofit agency for the blind and any such agency for other severely handicapped which have sold commodities or services under this Act but only with respect to the books, documents, papers, and other records of such agency which relate to its activities in a fiscal year in which a sale was made under this Act.

(June 25, 1938, c. 697, § 4, as added June 23, 1971, Pub.L. 92-28, § 1, 85 Stat. 81.)

***Javits-Wagner-O'Day Act, Section 5 (41 U.S.C. § 48b)***

**§ 5. Definitions**

For purposes of this Act:

(1) The term "blind" refers to an individual or class of individuals whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit 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.

(2) The terms "other severely handicapped" and "severely handicapped individuals" mean an individual or class of individuals under a physical or mental disability, other than blindness, which (according to criteria established by the Committee after consultation with appropriate entities of the Government and taking into account the views of non-Government entities representing the handicapped) constitutes a substantial handicap to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment.

(3) The term "qualified nonprofit agency for the blind" means an agency:

(A) organized under the laws of the United States or of any State, operated in the interest of blind individuals, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(B) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

(C) which in the production of commodities and in the provision of services (whether or not the commodities or services are procured under this Act) during the fiscal year employs blind individuals for not less than 75 per centum of the man-hours of direct labor required for the production or provision of the commodities or services.

(4) The term "qualified nonprofit agency for other severely handicapped" means an agency:

(A) organized under the laws of the United States or of any State, operated in the interest of severely handicapped individuals who are not blind, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(B) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

(C) which in the production of commodities and in the provision of services (whether or not the commodities or services are procured under this Act) during the fiscal year employs blind or other severely handicapped individuals for not less than 75 per centum of the man-hours of direct labor required for the production or provision of the commodities or services.

(5) The term "direct labor" includes all work required for preparation, processing, and packing of a commodity, or work directly relating to the performance of a service, but not supervision, administration, inspection, or shipping.

(6) The term "fiscal year" means the twelve-month period beginning October 1 of each year.

(7) The term "Government" and "entity of the Government" include any entity of the legislative branch or the judicial branch, any executive agency or military department (as such agency and department are respectively defined by sections 102 and 105 of Title 5, United States Code), the United States Postal Service, and any non-appropriated fund instrumentality under the jurisdiction of the Armed Forces.

(8) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(June 25, 1938, c. 697, § 5, as added June 23, 1971, Pub.L. 92-28, § 1, 85 Stat. 81, and amended July 25, 1974, Pub.L. 93-358, § 1(3), 88 Stat. 393; Apr. 21, 1976, Pub.L. 94-273, § 3(22), 90 Stat. 377.)

***Javits-Wagner-O'Day Act, Section 6 (41 U.S.C. § 48c)***

## **§ 6. Authorization of appropriations**

There are authorized to be appropriated to the Committee to carry out this Act \$240,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary for the succeeding fiscal years.

(June 25, 1938, c. 697, § 6, as added June 23, 1971, Pub.L. 92-28, § 1, 85 Stat. 82, and amended July 30, 1973, Pub.L. 93-76, 87 Stat. 176; July 25, 1974, Pub.L. 93-358, § 1(4), 88 Stat. 393.)

### ***Javits-Wagner-O'Day Act, Section 7 (41 U.S.C. § 46 nt.)***

## **§ 7. Short title**

This Act may be cited as the "Javits-Wagner-O'Day Act."

(June 25, 1938, c. 697, § 7, as added Oct. 13, 1994, Pub.L. 103-355, Title X, § 10005(f)(6), 108 Stat. 3409.)

Link: [http://www.abilityone.gov/jwod/library/JWOD\\_Act.html](http://www.abilityone.gov/jwod/library/JWOD_Act.html)