# TITLE: EXCEPTIONS TO ABILITYONE PROCUREMENT LIST PURCHASES

## 1. PURPOSE.

This policy provides the actions required when Federal agencies seek an exception to the statutory and regulatory requirements to purchase products and/or services on the AbilityOne® Program Procurement List, typically called a purchase exception.

## 2. APPLICABILITY.

This policy is applicable to Federal agencies, Central Nonprofit Agencies (CNA), Nonprofit Agencies (NPA), and the U.S. AbilityOne Commission (Commission).

## 3. AUTHORITY.

(a) 41 U.S.C. §§ 8501 – 8506, Javits-Wagner-O'Day Act

(b) 41 CFR 51-5.4, Purchase exceptions

(c) Federal Acquisition Regulations (FAR) Subpart 8.7, Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled

## 4. DEFINITIONS AND ACRONYMS.

Definitions, abbreviations, and acronyms frequently used throughout the Commission's policy system are provided in Policy 51.102, Definitions. Terms unique to a specific subject matter will be defined in the associated policy and/or procedure.

## 5. RESPONSIBLITIES.

(a) The Commission maintains the Procurement List (PL), oversees Federal agency purchases of PL products or services from designated nonprofit agencies, and administers purchase exceptions as needed in accordance with its regulation provided at 41 CFR 51-5.4.

(b) The Central Nonprofit Agencies (CNAs) are responsible for providing information regarding their nonprofit agencies' capability and capacity when a purchase exception is being considered by the Commission. The CNAs also administer purchase exceptions as needed and as prescribed herein, for purchases under the Simplified Acquisition Threshold.

(c) Federal agencies adhere to the requirements presented within this policy, and applicable laws and regulations, when requesting purchase exceptions.

## 6. POLICY.

(a) The Commission's objective is to maximize the sales of AbilityOne products and services on the Procurement List in order to provide and sustain employment of people who are blind or have other significant disabilities. Accordingly, exceptions to mandatory purchases of AbilityOne products and services shall be approved by the Commission or its designated CNA only as necessary, when the designated NPA(s) cannot meet the Contracting Activity's requirement in the timeframe needed.

(b) Federal agencies shall clearly articulate their requirements and reasons for requesting a purchase exception, and seek to minimize the impact of a purchase exception on the statutory mission of the AbilityOne Program.

(c) If a Purchase Exception is granted:

i. Contracting activities shall initiate purchase actions within 15 days following the date of the purchase exception. The deadline may be extended by the central nonprofit agency with, in cases of procurements exceeding the simplified acquisition threshold, the concurrence of the Commission.

ii. Contracting activities shall furnish a copy of the solicitation to the responsible central nonprofit agency at the time it is issued, and a copy of the contract or purchase order.

iii. The Commission will determine and specify the quantity and/or length of time authorized under any purchase exception granted, which may be less than requested.

(d) In accordance with 41 CFR 51-5.4, Purchase exceptions, the Commission has authorized its designated CNA to grant purchase exceptions up to the Simplified Acquisition Threshold.

i. CNAs will submit a complete package containing the purchase exception request and adjudication of the same to the Commission concurrent with issuance.

ii. Federal agencies may appeal a CNA decision regarding a purchase exception to the Commission.

## 7. EXCEPTION TO POLICY.

None.

## 8. PROCEDURES.

(a) The Commission will review and grant, as needed, purchase exceptions for requirements at any dollar threshold, but normally addresses those in excess of the Simplified Acquisition Threshold.

i. When a request for exception to purchase products or services on the Procurement List is being reviewed by the Commission, the responsible CNA shall advise the Commission regarding capability and capacity of its other associated NPAs to fulfill the requirements in the timeframe needed.

ii. When an associated NPA has the capability and capacity to meet the requirements in the timeframe needed, that NPA will normally receive an allocation to perform the work in lieu of the Commission granting a purchase exception.

iii. If the responsible CNA does not have an associated NPA able to meet the requirements, that CNA shall contact the other CNA to determine whether any other AbilityOne NPAs are currently capable of furnishing the product or service in the timeframe needed. When another NPA in the AbilityOne Program has the capability and capacity to meet the requirements in the timeframe needed the responsible CNA will provide the requirements and appropriate information to the other CNA, who will allocate the work to an NPA that can fulfill the requirements.

(b) The responsible CNA will promptly review and grant, as needed, purchase exceptions for requirements up to the amount of the Simplified Acquisition Threshold.

i. When a request for exception to purchase products or services on the Procurement List under the Simplified Acquisition Threshold is received by the CNA, it shall review the capability and capacity of its other associated NPAs to fulfill the requirements in the timeframe needed.

ii. When an associated NPA has the capability and capacity to meet the requirements in the timeframe needed, that NPA will be normally receive an allocation to perform the work in lieu of the CNA granting a purchase exception.

iii. If the responsible CNA does not have an associated NPA able to meet the requirements, that CNA shall contact the other CNA to determine whether any other AbilityOne NPAs are currently capable of furnishing the product or service in the timeframe needed.

iv. When another NPA in the AbilityOne Program has the capability and capacity to meet the requirements in the timeframe needed the responsible CNA will provide the requirements and appropriate information to the other CNA, who will allocate the work to an NPA that can fulfill the requirements.

(c) The Commission staff will periodically review the products and services that have been placed on purchase exception to determine whether those items should be considered for deletion from the Procurement List.

**9. SUPERSESSION.**

N/A

**APPROVED:** _____ **Date:** 8/9/2012

**E. Ballard**
**Executive Director**