

April 22, 2021

The Honorable Gary C. Peters
Chair, Senate Committee on Homeland Security and Governmental Affairs
724 Hart Senate Office Building
Washington, DC 20510

The Honorable Rob Portman
Ranking Member, Senate Committee on Homeland Security and Governmental Affairs
448 Russell Senate Office Building
Washington, DC 20510

The Honorable Carolyn B. Maloney
Chair, House Committee on Oversight and Reform
2308 Rayburn House Office Building
Washington, DC 20515

The Honorable James Comer
Ranking Member, House Committee on Oversight and Reform
2410 Rayburn House Office Building
Washington, DC 20515

Dear Honorable Chairs and Ranking Members Peters, Portman, Maloney, and Comer:

As we move forward as a nation to tackle unprecedented challenges to the future of work, our organizations, representing America's leading employers of people who are blind and with disabilities, have been working together to develop a consensus approach to addressing the issues before us and the Nation. Together, and in partnership with Congress, we want to craft and enact new policies that will enhance access to meaningful and productive careers for millions of Americans who have traditionally faced difficulty finding employment. We are writing to share our principles and suggested approaches with you on a pro-jobs agenda for the people we represent.

The economic catastrophe of the past year has brought devastation to millions of Americans, but none more so than for individuals who are blind and with disabilities. Research conducted by Global Disability Inclusion found that close to 40% of people with disabilities were laid off or furloughed as a result of the ongoing pandemic. The jobs provided by our agencies via the AbilityOne Program, however, have held steady. Indeed, our organizations continue to provide employment for the same number of people as we did a year ago – a fact that speaks to the durability and enduring importance of the AbilityOne Program to people who are blind and with disabilities.

Despite the pandemic-proven resilience of the AbilityOne Program and the jobs it affords people who are blind and with disabilities, we believe that any expansion of job opportunities for this community begins with a thoughtful transformation of the Program. Since its initial origins over 75 years ago as the Wagner-O'Day Act, the AbilityOne Program has successfully paired hundreds of thousands of workers

with federal contracting opportunities – providing employment to hard working Americans who are blind or have disabilities while also driving great value and results for the U.S. taxpayer. In recent years, we take great pride in the fact that the Program has provided an especially impactful job boost for returning disabled servicemen and women from Afghanistan, Iraq, and other theaters of war.

In recent years, we have made great progress in modernizing our approach to employment by expanding opportunities for knowledge-based jobs such as Contract Management Support and enacting training programs that encourage upward mobility. And our commitment to improvement has been recognized; indeed, this past year, AbilityOne jobs were designated as part of the Defense Industrial Base Essential Critical Infrastructure and advised by the federal government that they “have a special responsibility” to maintain their normal work schedule. Our workforce embraced this designation with enthusiasm, taking great pride that they were deemed “essential.” We all agree, however, that the Program is in need of strengthening in order to provide for its long-term stability and to remain relevant to the changing workplace. The following are our suggestions for a good place to start:

14(c)

Disability rights advocates have long argued that the use of special wage certificates for employees under the 14(c) waiver provisions of the Fair Labor Standards Act should end. We agree. Until 14(c) is repealed, we believe that no special wage certificates should be used on AbilityOne contracts so that all employees are provided a fair level of wages.

Ratio

Under current law, for an agency to be deemed eligible for program participation, 75% of the direct labor must be performed by employees with disabilities. Many jobs such as management and administration are not counted in this calculation, which gives the impression that employees with disabilities are somehow ineligible to attain these jobs. This fuels the argument that the jobs offered within the AbilityOne program do not offer the opportunity for an upward career path. This impression is a false one, and we believe that in any change in the law, the ratio should be modified to account for all employees, regardless of their position in the organization.

If all jobs offered by the program are paid a full and fair wage and all jobs have opportunities for advancement, then all jobs within the AbilityOne program should qualify as Competitive Integrated Employment by the US Department of Education so that those employees with disabilities remain eligible for training and other vocational resources that ensure they remain independent and self-sufficient.

Definition of Disability

Our organizations support the adoption of a modern definition of disability that respects the people we serve such as the one proposed by the Department of Defense’s “898 Panel” on AbilityOne Contracting Oversight, Accountability, and Integrity. Such a change would eliminate the outdated definition that describes a person with a disability as “unable to maintain normal competitive employment” which we know to be false.

Eligibility determination

We believe that eligibility for participation in the AbilityOne Program should be determined by a licensed medical professional. Assuring the integrity of the program is a fundamental obligation we have to all Americans. Relying on licensed medical professionals who are bound by a code of ethics will provide added assurance.

Mandatory Status


Under current law, nonprofit agencies designated by the AbilityOne Commission are mandatory sources of supply for all entities of Government for commodities and services included on the Procurement List. We agree that the Mandatory Status in current law is critical to the viability of the program and should remain intact. In addition, we also call for the adoption of a 1.5% Federal Procurement Goal which would encourage federal prime contractors to significantly grow and diversify their employment. Moreover, extending the goal to federal prime contractors would create supplier/customer relationships between the nonprofit employers and the private sector that would facilitate job placement opportunities for employees with disabilities, much as they have with government jobs over the years.

SSDI

While not technically related to the AbilityOne statute, we believe that the successful employment of persons who are blind and have disabilities requires the elimination of the so-called Social Security Disability Insurance (SSDI) earnings cliff. Under current law, people with disabilities are incited to refuse promotions, raises, and even work hours for fear of losing valuable benefits such as health care for dependents. Removing this major disincentive for people to work or to accept opportunities for professional advancement would clearly increase the rate of employment of people with disabilities in the economy. We encourage Congress to address this unintended consequence of current law.

In sum, we are grateful for this opportunity to share these positions with you and are optimistic for the potential of achieving long lasting, bipartisan reform of this landmark disability employment law. We believe that the recommendations outlined in this letter can double the number of job opportunities for people who are blind and have disabilities and stand ready as a community that is united in both purpose and vision to work with you towards strengthening AbilityOne's mission for the road ahead.

Respectfully,



Kevin A. Lynch
President and CEO, NIB

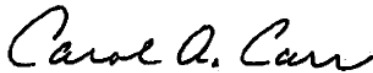




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Cc:

Senator Patty Murray, Senate Committee on Health, Education, Labor and Pensions, Chair
Senator Richard Burr, Senate Committee on Health, Education, Labor and Pensions, Ranking Member
Senator Patrick Leahy, Senate Committee on Appropriations, Chair
Senator Richard Shelby, Senate Committee on Appropriations, Ranking Member
Senator Jack Reed, Senate Committee on Armed Services, Chair
Senator James Inhofe, Senate Committee on Armed Services, Ranking Member
Representative Bobby Scott, House Committee on Education and Labor, Chair
Representative Virginia Foxx, House Committee on Education and Labor, Ranking Member
Representative Rosa DeLauro, House Committee on Appropriations, Chair
Representative Kay Granger, House Committee on Appropriations, Ranking Member
Representative Adam Smith, House Committee on Armed Services, Chair
Representative Mike Rogers, House Committee on Armed Services, Ranking Member