



*For people with intellectual  
and developmental disabilities*

The Arc  
1825 K Street NW, Suite 1200  
Washington, DC 20006

T 202 534-3700  
F 202 534-3731  
thearc.org

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Mr. Jeff Koses  
Chairperson  
Patriots Plaza III 355 E Street, SW  
Suite 325  
Washington, DC 20024

Ms. Kim Zeich  
Executive Director  
Patriots Plaza III 355 E Street SW  
Suite 325  
Washington, DC 20024

Dear Chairperson Koses and Executive Director Zeich:

Thank you for the opportunity to provide comments on the competition NPRM on behalf of The Arc. The Arc is the largest national community-based organization advocating for people with intellectual and developmental disabilities (IDD) and their families, with nearly 600 state and local chapters nationwide. The Arc promotes and protects the human rights of people with intellectual and developmental disabilities and actively supports their full inclusion and participation in the community throughout their lifetimes.

As an organization with such a mission, we are pleased by the Commission's overall direction in favor of improving the experiences and advancing the rights of workers in the AbilityOne program and bringing the program as close to competitive integrated employment as the statute allows. However, as one of the founding SourceAmerica national nonprofit associations (NNA's), we are deeply concerned about the impact this rule might have on the ability of non-profit agencies (NPA's) to provide good jobs and optimal jobs.

In an effort to achieve those noble goals, financial demands upon NPA's have been increased. The Commission prohibited NPA's from using 14(c) certificates, which The Arc supported. Additionally, the Commission has issued guidance that would require NPA's to engage in job individualization efforts.

We do not believe the fact that price is one of multiple factors fully prevents a "race to the bottom." In fact, we believe recent policy changes create perverse incentives that could lead to just that if combined with this proposed rule. An NPA that gets more output per labor hour will likely be able to offer a lower price. This creates a disadvantage for NPA's who retained employees that previously earned subminimum wage. Such an NPA would be at a serious disadvantage compared to an NPA who hires employees newly categorized as having significant disabilities due to Policy 51.403. If the Commission decides to enact this rule, we recommend adding language that makes the retention of employees who previously earned subminimum wage a factor in the NPA selection process. The Arc believes that such an amendment would mitigate but not completely eliminate the risk of a "race to the bottom." The subjectivity of the definition of the term "significant job supports" will inevitably lead to differences in who is determined to be eligible for the program. We don't believe any definition could completely eliminate that subjectivity.

The proposed rule departs from the 898 Panel recommendations in several ways. The Arc believes the rule would be improved by conforming to the 898 Panel recommendations in four areas. The 898 Panel recommended that the rule only apply to contracts with an annual value of \$10 million or more. By contrast, the proposed rule applies to contracts with an expected total value of \$10 million. Furthermore, unlike the proposed rule, the 898 Panel recommendation applies only to services performed on federal property or installations. Additionally, the proposed rule allows federal customers to request competition on contracts below \$10 million in the case of an impasse in bilateral negotiations. The potential for such competition would place a downward pressure on prices, meaning that the “race to the bottom” is not limited to a small subset of NPA’s. Finally, the proposed rule omits social impact as a factor in selection. The inclusion of social impact is one potential way to mitigate the “race to the bottom” risk. If the Commission proceeds with finalizing this rule, The Arc urges the adoption of these provisions from the 898 Panel report.

Sincerely,

Mike Nagel  
Policy Manager  
The Arc of the United States