# Disability Employment Act

**an outdated approach to employment fails to adequately equip workers with disabilities for the challenges of the twenty-first century.**

**The Javits-Wagner-O’Day Act (JWOD) is a well-intentioned but obsolete law intended to provide employment for people with disabilities through specialized government contracts.** Enacted in 1938, the Wagner-O’Day Act required that government agencies prioritize the procurement of products produced by blind people. In 1971 the program was expanded to become the Javits-Wagner-O’Day Act,[[1]](#endnote-1) and to include nonprofit agencies employing persons who are blind or have other severe disabilities.[[2]](#endnote-2),[[3]](#endnote-3) While the originally intended goals of the program are noble, the current structure falls short of those ideals by failing to equip workers with the necessary skillsets to compete in the twenty-first century workforce.

**The work experience provided by the AbilityOne Program does not utilize or teach the skills required for today’s fast-paced digital work environment.** Many workers with disabilities employed under the AbilityOne Program are assigned menial, repetitive tasks, which do nothing to equip them with the skills needed to succeed and advance in a modern workplace. As a result, many of these individuals find themselves trapped in these jobs for years, if not decades, with no real hope to advance or find new employment opportunities elsewhere.

**The AbilityOne Program thrives on specialized contracts while at the same time paying employees with disabilities subminimum wages.** Section 14(c) of the Fair Labor Standards Act,[[4]](#endnote-4) passed in 1938, authorizes the Secretary of Labor to issue Special Wage Certificates to certain entities, permitting them to pay workers with disabilities subminimum wages. The vast majority of 14(c)-certificate-holding entities are nonprofit “sheltered workshops” (segregated work environments)[[5]](#endnote-5) that pay over 300,000 workers with disabilities,[[6]](#endnote-6) some as little as pennies per hour.[[7]](#endnote-7) Additionally, the failure of the AbilityOne Commission to adequately manage its own financial resources[[8]](#endnote-8) and display an appropriate level of transparency[[9]](#endnote-9) has eroded public confidence in the program.

**AbilityOne sheltered workshops create a segregated work environment that is antithetical to competitive integrated employment.** The current structure requires that the majority of the work performed on AbilityOne contracts is carried out by employees with disabilities at specialized nonprofits.[[10]](#endnote-10) These specialized nonprofits create an artificially inclusive work environment. Additionally, the current structure incentivizes excluding workers with disabilities from advancement to administrative, managerial, or supervisory positions.[[11]](#endnote-11) This results in people with disabilities stagnating in the same job for years or decades without creating opportunities for advancement to employers outside the program. This model also fails by not sharing best practices to employers outside the program in order to broaden its impact.

**Disability Employment Act:**

**Will expand bidding opportunities within the program.** The Disability Employment Act will allow for-profit as well as nonprofit entities to bid on contracts through a newly created commission.

**Will ensure that workers earn at least the prevailing wage.** The bill will prohibit the use of 14(c) certificates and will require employers to pay workers with disabilities at least the minimum wage, or if greater, the prevailing wage.

**Will equip employers with the necessary tools and supports to integrate workers with disabilities.** The bill establishes an Employment Integration Trust Fund to assist employers to meet reasonable accommodation requirements under Title I of the Americans with Disabilities Act. Employers will have access to financial assistance to ensure that the technology they use is accessible; to train design, development, and manufacturing teams on best practices; and to provide the necessary supports required by individuals with other severe disabilities. This will improve disability employment practices across all sectors of employment.

**Will better integrate with the Randolph-Sheppard Program.** The bill will honor the Randolph-Sheppard Priority for all military dining contracts, including cafeterias.

**Will eliminate the conflicts of interest and lack of accountability in the current program.** The bill will change the composition of the commission, restructure the way the contracts are awarded, and create a trust fund to support the organic integration of workers with disabilities into the mainstream workforce.

**INCREASE AND ENHANCE EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH DISABILITIES.**

**Sponsor the Disability Employment Act.**

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1. 41 U.S.C. § 8501 – 8506. [↑](#endnote-ref-1)
2. 41 U.S.C. § 8501(6). [↑](#endnote-ref-2)
3. 41 U.S.C. § 8501(7). [↑](#endnote-ref-3)
4. 29 U.S.C. § 214(c)(1). [↑](#endnote-ref-4)
5. United States Department of Labor. “Wage and Hour Division (WHD) Community Rehabilitation Programs (CRPs) List.” Last modified July 1, 2018. http://www.dol.gov/whd/specialemployment/CRPlist.htm. [↑](#endnote-ref-5)
6. National Council on Disability. “From the New Deal to the Real Deal: Joining the Industries of the Future.” October 11, 2018. https://ncd.gov/publications/2018/new-deal-real-deal. [↑](#endnote-ref-6)
7. See http://www.nfb.org/time. [↑](#endnote-ref-7)
8. Office of Inspector General. Committee for Purchase from People who are Blind or Severely Disabled, Independent Auditor’s Report and Financial Statements for the Years Ended September 30, 2018 And 2017. November 15, 2018. https://www.oversight.gov/report/cppbsd/audit-us-abilityone-commissions-financial-statements-fiscal-years-2018-and-2017. [↑](#endnote-ref-8)
9. Id. [↑](#endnote-ref-9)
10. 41 U.S.C. § 8501(6)(C). [↑](#endnote-ref-10)
11. 41 U.S.C. § 8501(3)(B). [↑](#endnote-ref-11)