

# H.R. 2804 - Protecting Small Business Competitions Act of 2025



## Our Ask

SourceAmerica<sup>®</sup> opposes H.R. 2804, the Protecting Small Business Competitions Act of 2025 and urges its network of nonprofit agencies to do the same. This bill would put more than 41,000 jobs for people with disabilities through the AbilityOne<sup>®</sup> Program at risk.

## Purpose

H.R. 2804 seeks to amend the Small Business Act to codify the “Rule of Two,” a policy that requires federal contracting officers to set aside contracts for small businesses when there is a reasonable expectation that at least two small businesses can offer competitive bids on price, quality, and delivery. The bill is a legislative effort to protect and expand small-business participation in federal contracting by enshrining the “Rule of Two” in law.

## Issue

If this bill were to pass, it would pose an unintended threat to the AbilityOne Program. It would provide legal certainty and priority for small business federal contracting at the expense of tens of thousands of Americans who are blind or have significant disabilities employed in the AbilityOne Program.

Without clear language protecting the AbilityOne Program's future, this bill, if enacted, would convert an existing regulatory directive into a statutory mandate and compel contracting officers to prioritize small business set-asides over new and existing AbilityOne contracts. That would greatly reduce or eliminate employment opportunities for AbilityOne employees, a group of Americans historically unemployed at twice the rate of people without disabilities and likely to become dependent on federal entitlement benefits.

## Background

Congress established the AbilityOne Program through the Javits-Wagner-O’Day Act (JWOD Act), as amended, in 1938, to require federal agencies to procure certain supplies and services from nonprofit organizations that employ individuals who are blind or have significant disabilities. This ensures these individuals have meaningful employment opportunities while providing high-quality products and services to the government. The JWOD Act establishes a policy to increase employment and training opportunities for people who are blind or have other significant disabilities through government procurement.

The AbilityOne Program currently provides employment for more than 41,000 Americans who are blind or have significant disabilities. It covers a wide range of products and services, including food products for military dining facilities, janitorial services, and office supplies. Once a product or service is on the AbilityOne Procurement List, the government must purchase it from the designated nonprofit agency until the requirement ends or the agency can no longer supply it. The Program is the one of the largest sources of employment for people with significant disabilities in the United States. Although federal agencies are required to purchase products and services on the Procurement List, there is no requirement for these agencies to add new work to the AbilityOne Program.

## Potential Impact

Amending the Small Business Act to require the Rule of Two to apply to all federal contracts, regardless of dollar amount, and to issue task orders and delivery orders under government-wide contracts would increase small business participation in federal procurement while sacrificing AbilityOne contracts. This bill would send a clear signal to the federal contracting workforce that small business contracting takes priority over all other contracting.

H.R. 2804, as well as other prior bills, have sought to expand opportunities for its constituents without considering the negative effect on the AbilityOne Program and on job opportunities for people who are blind or have significant disabilities. There is valid precedent for this concern. In 2018, the U.S. Court of Appeals for the Federal Circuit was asked to address whether the Department of Veterans Affairs (VA) was required under the Veterans Benefits Act (VBA) to perform a “Rule of Two” analysis. The goal was to determine whether two or more veteran-owned small businesses could perform work at a fair price before engaging in a mandatory source procurement with an AbilityOne NPA pursuant to the JWOD Act. See *PDS Consultants, Inc. v. United States*, 907 F.3d 1345 (Fed. Cir. 2018). The Federal Circuit concluded that the VA was required to do so. According to the Court, to the extent the requirements of the VBA and the JWOD Act conflicted, the more specific, later-enacted VBA took precedence. Noting that the VBA lacked an exception for procurements that would otherwise be governed by the JWOD Act, the Court stated that it had to infer that Congress intended the VBA to control in this narrower arena. While the Court was “mindful of Appellants’ policy arguments,” it determined that it must “give effect to the policy choices made by Congress.”

Recognizing that the passage of the VBA was not intended to undermine the long-standing AbilityOne Program and the value it provides to the Federal Government, Congress ultimately stepped in after the Court’s decision and passed Public Law 116-155, Department of Veterans Affairs Contracting Preference Consistency Act of 2020, to resolve the direct conflict between the two statutes.

To learn more about this issue and how it impacts people with disabilities, contact the SourceAmerica Government Affairs Department at [Advocacy@SourceAmerica.org](mailto:Advocacy@SourceAmerica.org).