



August 26, 2021

Ms. Amy DeBisschop, Director  
Division of Regulations, Legislation,  
and Interpretation  
Wage and Hour Division  
U.S. Department of Labor  
Room S-3502  
200 Constitution Ave NW  
Washington, D.C. 20210

Regulatory Information Number (RIN) 1235-AA41

Electronic comment submitted through the Federal eRulemaking Portal at <http://www.regulations.gov>

Dear Ms. DeBisschop,

On behalf of SourceAmerica® and the more than 400 nonprofit agencies employing people with disabilities in the AbilityOne® Program, I am submitting the following comments on the proposed rule to implement Executive Order 14026, "Increasing the Minimum Wage for Federal Contractors."

Established in 1974, SourceAmerica's mission is to create and increase employment opportunities for people with disabilities. As a leading job creator within the disability community, and an [AbilityOne](#)-authorized enterprise, SourceAmerica connects government and corporate customers to a national network of nonprofit agencies (NPAs) that hire people with disabilities.

NPAs in the SourceAmerica network employ nearly 40,000 people with disabilities on AbilityOne contracts, providing services and products to the federal government. These individuals earned an average of \$15.00 per hour in FY2020.

SourceAmerica supports the Administration's intent to raise the minimum wage for federal service contractors. However, we are concerned that many individuals with disabilities may choose to reduce their work hours, have their work hours involuntarily reduced, or even lose their jobs as an unintended consequence of the Executive Order.

For decades, the labor force participation rate of people with disabilities has remained roughly 40 percentage points lower than that of people without disabilities. According to a recent Bureau of Labor Statistics employment report, only 35.2% of all working age people with disabilities are employed or looking for work. In contrast, the labor force participation rate for people without disabilities was 77.6%. We would like to offer three recommendations to lessen these employment disparities and help mitigate the impact of the minimum wage increase on individuals with disabilities and their non-profit employers.

### 1) Intergovernmental Support Agreements

SourceAmerica is pleased to see that the Department of Labor is proposing that the term “contract” be interpreted to include all contracts and any subcontracts that are negotiated based on intergovernmental services agreements as long as they are covered by the Federal Acquisition Regulation (FAR).

We respectfully request that the Department further clarify the definition of a “contract” to include any contracts between the federal government and state and local governments/municipalities entered into through intergovernmental support agreements (IGSAs). We have learned, for example, that the Army intends to use language from 10 U.S.C. 2679, *Installation-support services: intergovernmental support agreements*, as a cost-saving strategy by contracting with local governments and municipalities because they are not required to pay the federal minimum wage. We are concerned that other entities also will use contractual arrangements such as these, and as a consequence, substantially reduce the number of jobs available for people with disabilities who work on AbilityOne contracts.

### 2) Impact on People with Disabilities’ Supplemental Security Benefits

It is critical that the Administration understand and address the potential for work disincentives that currently exist regarding individuals with disabilities who receive Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI). When individuals reach the substantial gainful activity (SGA) level of income under Title II disability benefits, they lose SSI and SSDI along with ancillary benefits for their dependents and access to Medicare and/or Medicaid. As a result, they may be incentivized to reduce their hours or even leave the workforce to retain benefits under Social Security and Medicare and/or Medicaid. A reduction in work hours and/or a drop in workforce negatively impacts the workers themselves, and it also creates an additional burden on the NPAs employing them because they would be required to recruit and train new workers to fill in the gaps.

SourceAmerica recommends mitigating these significant, unintended consequences by 1) increasing the SGA level of income which is currently calculated based on the national average wage index, or 2) introducing more flexibility for individuals with disabilities who meet certain criteria, as determined by the Department of Labor, in terms of their SSI or SSDI dependence and the risk of unemployment or reduced hours.

### 3) Wage Increases for Support Staff and Contract Employees

An increase in service worker pay may create a spillover effect on staffing costs for nonprofit agencies. They would be required to raise wages for support staff - such as direct care workers, job coaches, and other administrative staff - who provide the necessary support to individuals with disabilities working on a covered contract. These additional costs are unlikely to be covered by the federal government.

Additionally, raising the minimum wage when a contract reaches the end of its current period of performance causes difficulties for nonprofit agencies where the same workers work on several contracts in a day or week. The administrative task for nonprofit agencies to track and document employees' hours on each contract creates an additional burden. For example, a laundry plant may have ten or more federal laundry contracts, which are touched by all the employees in the plant. Once one contract is renewed at the new minimum wage, the plant will be forced to decide how to track and pay its employees different wages when they work on different contracts, or just start paying the new wage on all contracts without being able to recoup their costs.

SourceAmerica recommends working with Congress to implement technical assistance and transitional funding programs with any mandatory increase of federal minimum wages.

Thank you for your consideration of our comments and recommendations. We welcome the opportunity to work with you and your staff on these important issues. If you have any questions or need additional information, please do not hesitate to contact SourceAmerica Vice President of Government Affairs Stacy Palmer Barton at [sbarton@sourceamerica.org](mailto:sbarton@sourceamerica.org).

Sincerely,



Richard Belden  
Interim President & CEO