



**THE UNDER SECRETARY OF DEFENSE**  
**3010 DEFENSE PENTAGON**  
**WASHINGTON, DC 20301-3010**

**ACQUISITION,  
AND SUSTAINMENT**

**JAN 15 2020**

The Honorable James M. Inhofe  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Section 898(i)(2) of the National Defense Authorization Act for FY 2017 (Public Law 114-328), requests that the Panel on the Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity (hereinafter "the Panel") submit an annual report not later than September 30, 2017, and annually thereafter for the next three years. Pursuant to section 898(i)(1), enclosed is the Panel's second annual report to Congress, which provides the implementation status of the recommendations identified in the Panel's first annual report.

On September 25, 2019, the Department informed the committees and the Commission that the second report would be submitted by the end of December 2019. The enclosed second annual Panel report covers the period of August 1, 2018, through October 31, 2019. The Department expects to submit the third annual Panel report by the end of December 2020.

An identical letter has been sent to the other congressional defense committees, the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the U.S. AbilityOne Commission.

Sincerely,

  
Ellen M. Lord

Enclosure:  
As stated

cc:  
The Honorable Jack Reed  
Ranking Member



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3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

**ACQUISITION,  
AND SUSTAINMENT**

JAN 15 2020

The Honorable Richard C. Shelby  
Chairman  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Section 898(i)(2) of the National Defense Authorization Act for FY 2017 (Public Law 114-328), requests that the Panel on the Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity (hereinafter "the Panel") submit an annual report not later than September 30, 2017, and annually thereafter for the next three years. Pursuant to section 898(i)(1), enclosed is the Panel's second annual report to Congress, which provides the implementation status of the recommendations identified in the Panel's first annual report.

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Sincerely,

  
Ellen M. Lord

Enclosure:  
As stated

cc:  
The Honorable Patrick J. Leahy  
Vice Chairman



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**WASHINGTON, DC 20301-3010**

**ACQUISITION,  
AND SUSTAINMENT**

**JAN 15 2020**

The Honorable Nita M. Lowey  
Chairwoman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Madam Chairwoman:

Section 898(i)(2) of the National Defense Authorization Act for FY 2017 (Public Law 114-328), requests that the Panel on the Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity (hereinafter "the Panel") submit an annual report not later than September 30, 2017, and annually thereafter for the next three years. Pursuant to section 898(i)(1), enclosed is the Panel's second annual report to Congress, which provides the implementation status of the recommendations identified in the Panel's first annual report.

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Sincerely,

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Ellen M. Lord

Enclosure:  
As stated

cc:  
The Honorable Kay Granger  
Ranking Member



**THE UNDER SECRETARY OF DEFENSE**  
3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

**ACQUISITION,  
AND SUSTAINMENT**

JAN 15 2020

The Honorable Adam Smith  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Section 898(i)(2) of the National Defense Authorization Act for FY 2017 (Public Law 114-328), requests that the Panel on the Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity (hereinafter "the Panel") submit an annual report not later than September 30, 2017, and annually thereafter for the next three years. Pursuant to section 898(i)(1), enclosed is the Panel's second annual report to Congress, which provides the implementation status of the recommendations identified in the Panel's first annual report.

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Ellen M. Lord

Enclosure:  
As stated

cc:  
The Honorable William M. "Mac" Thornberry  
Ranking Member



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**3010 DEFENSE PENTAGON**  
**WASHINGTON, DC 20301-3010**

**ACQUISITION,  
AND SUSTAINMENT**

**JAN 15 2020**

The Honorable Carolyn M. Maloney  
Chairwoman  
Committee on Oversight and  
Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Madam Chairwoman:

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cc:  
The Honorable Jim Jordan  
Ranking Member



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**WASHINGTON, DC 20301-3010**

**ACQUISITION,  
AND SUSTAINMENT**

JAN 15 2020

The Honorable Ron Johnson  
Chairman  
Committee on Homeland Security and  
Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

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As stated

cc:  
The Honorable Gary C. Peters  
Ranking Member



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**WASHINGTON, DC 20301-3010**

**ACQUISITION,  
AND SUSTAINMENT**

**JAN 15 2020**

Mr. Thomas D. Robinson  
Chairman  
U.S. AbilityOne Commission  
Arlington, VA 22202

Dear Mr. Chairman:

Section 898(i)(2) of the National Defense Authorization Act for FY 2017 (Public Law 114-328), requests that the Panel on the Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity (hereinafter "the Panel") submit an annual report not later than September 30, 2017, and annually thereafter for the next three years. Pursuant to section 898(i)(1), enclosed is the Panel's second annual report to Congress, which provides the implementation status of the recommendations identified in the Panel's first annual report.

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# Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity

## Second Annual Report to Congress

For the period August 1, 2018 through October 31, 2019



Office of the Under Secretary of Defense for  
Acquisition and Sustainment

January 2020

The estimated cost of this report for the Department of Defense (DoD)  
is approximately \$20,000.00 for DoD labor in Fiscal Year 2019.  
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# **Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity**

## **Executive Summary**

### **Basis of Submission**

Section 898 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Public Law 114-328), directs the Secretary of Defense to establish a Panel of senior level representatives from Department of Defense (DoD) agencies, the U.S. AbilityOne Commission, and other Federal agencies and organizations. As required by section 898(i)(2), the Panel submits an annual report on its activities. The Panel's second annual report to Congress provides progress on the implementation of the recommendations identified in the first report to Congress along with Panel accomplishments to improve the AbilityOne Program. This report covers the period of August 1, 2018 through October 31, 2019.

### **Panel Accomplishments**

During my one year tenure as Panel Chair, the Panel and seven subcommittees made tremendous progress toward implementing the initial 41 recommendations, which are consolidated into 26 actionable recommendations as explained below. Additionally, a major focus for 2019 was to increase outreach and consultation with AbilityOne Program stakeholders. This includes guest speakers from the AbilityOne nonprofit community at the Panel and subcommittee meetings, participation by the Chair and other Panel members in CEO forums and AbilityOne Program national disability training and grassroots events, and various site visits to associated nonprofit agencies (NPA), where informative discussions occurred with respective NPA leadership and AbilityOne employees. Among the feedback received, one of the AbilityOne professionals who is blind wanted the Panel to know that these are "real" jobs with benefits. Other employees shared how the AbilityOne Program provided the opportunity to have a career to support their families, and to gain self-confidence through training and job performance, helping them to move forward in daily life in a world of barriers against individuals who are blind or have significant disabilities. The engagements and conversations provide valuable context for the work of the Panel and subcommittees and result in more collaborative outcomes for the AbilityOne Program and employees.

As a result of Panel proceedings over the past year, the Panel prioritized and refined the 41 recommendations submitted in the first report to Congress that will improve the oversight, accountability, and transparency in contracting with the AbilityOne Program network, and increase employment opportunities. The result is 15 of the recommendations were determined to be similar and have been combined and other recommendations were realigned from one subcommittee to another for implementation, as addressed in Section 1, Introduction. Figure 04, Summary of Recommended Actions. Based on these updates, the Panel is tracking the progress of 26 recommendations, five of which have been completed, two are partially completed, and the balance are in various stages of implementation. The feasibility of certain recommendations continue to be explored by the Panel and stakeholders with new initiatives and pilots.

The Panel convened four times in 2019 and held a two-day off-site meeting where the subcommittees diligently worked to complete implementation plans for the Panel's recommendations. To assist the Panel in making informed decisions, the majority of the

meetings, as well as the off-site, included input from the AbilityOne Central Nonprofit Agencies (CNAs) and/or participating NPAs. The Panel has four meetings and a subcommittee off-site scheduled in 2020.

A significant action taken as a result of a Panel recommendation is the development of improved AbilityOne training for the DoD contracting workforce. This recommendation originated from the Panel's IG subcommittee, chaired by the U.S. AbilityOne Inspector General. The Defense Acquisition University (DAU) deployed a comprehensive update to Continuous Learning Module (CLM) 023, "DAU AbilityOne Training," and in FY 2019, approximately 25,000 contracting and purchasing acquisition workforce members, or 85 percent, have successfully completed the training. Adding in other acquisition workforce members, Federal agencies, and industry partners, more than 50,000 individuals have taken the training<sup>1</sup>.

This training is educating the workforce about the AbilityOne Program and helps ensure that DoD continues to be a leader in creating job opportunities for individuals who are blind, visually impaired, or have significant disabilities. The Panel continues to focus on updates to training, receiving feedback from users and expanding the training platform universe to help maximize the use of the AbilityOne Program and to have a positive impact on employment growth within the AbilityOne community.

### **Panel Findings**

The site visits further validated what the defense workforce already knows: AbilityOne NPAs and employees are a vital part of the defense industrial base and contribute to communities and local economies across the country. The 500 companies that employ approximately 45,000 employees located across the U.S. and its territories have expansive capabilities and mission areas to meet Federal customer requirements. This includes manufacturing of products as well as performing services such as contract closeout, warehouse operations, managing a store with adaptive technology, and offering training and a wide-range of rehabilitative and medical services. Appendix A is a map of the Program dollars in each State.

Although the AbilityOne Program is achieving success and meeting customer needs, the members and staff of the U.S. AbilityOne Commission are operating on an insufficient budget of \$7.5 million to oversee the Program that employs 45,000 individuals who are blind or have significant disabilities and a program size of 3.6 billion dollars<sup>2</sup>.

A significant overarching challenge for the AbilityOne Program continues to be the limited resources available for the U.S. AbilityOne Commission, as well as for the AbilityOne Commission's Office of Inspector General (OIG). In fact, I sent a letter (Appendix B) to the Chairperson of the U.S. AbilityOne Commission on October 25, 2019, to state it is crucial that the Commission is properly staffed and has the resources necessary to implement the Panel recommendations and fulfill the mission to employ people who are blind or have significant

<sup>1</sup> Defense Acquisition University, submitted October 2019.

<sup>2</sup> U.S. AbilityOne Commission FY18 annual data compiled from nonprofit agencies' Representations and Certifications

disabilities. In the first report to Congress, the Panel concluded and recommended allocating additional staff and funding for improvements to information systems for the U.S. AbilityOne Commission. The staffing and funding of the three AbilityOne CNAs and the funding of the Federal customers who contract with AbilityOne NPAs far exceed the funding and resources of the U.S. AbilityOne Commission.

The Panel and the AbilityOne Commission OIG have submitted recommendations for modernizing and improving the transparency and effectiveness of the AbilityOne Program as well as for employment growth. The majority of the recommendations require action by the U.S. AbilityOne Commission to establish or update policy, business practices, and regulations, or to recommend Congressional amendment of the Javits-Wagner-O'Day (JWOD) Act.

The Panel recommendations are effecting a paradigm shift in the AbilityOne Program and the Commission's responsibility to manage it. This results in positive outcomes for the customers and employees the Program serves. However, crucial funding and resources are needed for the U.S. AbilityOne Commission to fully implement the recommendations of the Panel and AbilityOne Commission OIG, and to enable the modernization of the AbilityOne Program's policies and business practices.

A common theme of discussion among the Panel and in communications with the AbilityOne CNAs, affiliated associations, and NPAs is the need for a statutory DoD AbilityOne contract goal. A 1.5 percent goal was a top recommendation in the Panel's first report to Congress and remains a recommendation in the second Panel report. Once enacted, the goal will be achieved with the improvement of the Commission's programs and operations, all of which would establish increased confidence in the AbilityOne Program. In 2019, despite being included in the Chairman's Mark, a provision which would have increased contracting goals and set the stage for expanded Program growth was declined at the NDAA Conference. The reason discussed by lawmakers for proceeding with the contracting goal provision was: "...both the [AbilityOne] Inspector General and the [DoD] Panel are generating findings and recommendations for needed reforms and expect the AbilityOne Commission to take appropriate steps in the future to increase transparency and effectiveness of the program."<sup>3</sup>

The identification of significant changes and the implementation of the recommendations should give Congress the confidence to resume discussions on the 1.5 percent goal in the future. An AbilityOne contracting goal will put the Program on par with other statutory program goals, and will make it easier for contracting officials to support the addition of new products and services to the Procurement List. This will result in increased employment across the AbilityOne Program. With the number of Americans with disabilities increasing commensurate with the overall and aging population, the time is now to enact a statutory goal.

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<sup>3</sup>FY 2019 NDAA House Conference Report 115-874 at 920.

## **Final Thoughts**

In FY 2019, the AbilityOne workforce provided more than \$2.4 billion in products and services to DoD, a 5 percent increase from 2018, and conducted nearly \$3.6 billion in business across all Federal agencies. The respective Federal agencies represented on the Panel, as well as the CNAs and NPAs, are investing significant manpower to implement recommendations that result in greater transparency, compliance, and employment in the AbilityOne Program. The U.S. AbilityOne Commission will analyze currently available resources and, via budget requests, communicate shortfalls impacting the implementation of recommendations with greater mission capacity and speed of business. The implementation of updated business practices that drive greater performance and competition, for example, within the AbilityOne Program is a necessity and aligns with the National Defense Strategy.

There are other issues, external to the AbilityOne Program that nevertheless impact employment for individuals who are blind or who have significant disabilities. First, eligibility for Federal and state financial and health benefits may be impacted when individuals with disabilities increase their earnings and/or the number of hours that they work. This, combined with a lack of access to benefits counseling that could ensure individuals can work and continue to access such benefits where needed, continues to act as a barrier to employment for people who are blind or have significant disabilities.

The actionable recommendations of the Panel for use of CNA resources to provide benefits counseling to AbilityOne NPA employees and technical assistance to NPAs would help facilitate increased employment for people with disabilities. The work of the Panel has also been geared toward ensuring that the AbilityOne Program's modernization is consistent with laws, enacted since the creation of the Program, that protect and assert the rights of people with disabilities, e.g. the Americans with Disabilities Act and the Workforce Innovation and Opportunity Act (WIOA). These rights include, but are not limited to, the right to receive services in the most integrated setting appropriate to an individual's needs.

The 898 Panel continues to work on AbilityOne Contracting Oversight, Accountability, and Integrity within the authorities of the NDAA, and contracting law and regulations. The Panel supports pilot tests that may provide a basis for amending or updating language in the WIOA or the JWOD Act, as it pertains to contracts employing people who are blind or have significant disabilities. For example, the Panel initiated a pilot study to inform the actionable recommendation to implement changes to the direct labor hour ratio, which may result in changes that will help NPAs currently operating segregated work environments to transform to integrated settings. This can help increase State and Federal referrals to the Program.

The work of the Panel over the past two years involved significant dedication and effort to first develop recommendations to address the statutory duties of the Panel. The second year focused on developing implementation plans, initiating pilot tests, and engaging in expansive outreach. In 2020, the Panel will continue outreach communications, feasibility studies, implementation of actionable recommendations, and consideration of other innovative opportunities for the Program's future.

To accomplish the multi-faceted mission of the Panel, I am pleased to have the full participation on the Panel of the Chairperson of the U.S. AbilityOne Commission, the statutory members of

the Panel, and the Executive Director and Commission's Director of Veterans Employment and Initiatives. Appendix C of this report includes a memorandum from the Chairperson of the Commission.

The AbilityOne Program workforce offers diversity of thought and valuable experience to assist customers in executing important missions across the Federal government. Through the commitment to action of the Panel, the AbilityOne community, and Congress, professionals and employees with differing abilities; veterans; veterans with disabilities; and individuals who are blind, visually impaired, or who have significant disabilities will have a greater opportunity to work, lead independent and dignified lives, serve in communities, and contribute to the Nation's economic success.



Kim Herrington  
Chair  
Panel on Department of Defense and  
AbilityOne Contracting Oversight,  
Accountability and Integrity

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# **Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity**

## **Section I: Introduction**

### **Overview**

Section 898 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Public Law 114-328) (Appendix D), directs the Secretary of Defense to establish the “Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity” (“the Panel”), and that a representative to the Under Secretary of Defense (USD) for Acquisition, Technology, and Logistics (AT&L) shall serve as the Panel Chairman. Effective February 1, 2018, the responsibility for the reporting requirement transferred to the Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S)).

Section 898 requires that the Panel shall submit findings and recommendations in a series of annual reports to Congress. This is the second annual report to Congress outlining the Panel’s progress, as of October 18, 2019, in implementing the initial recommendations identified in the first report to Congress.

### **Scope of Mission**

The Panel has a vast and multi-faceted mission as stated in the Panel charter. The primary responsibilities of the Panel are to review the effectiveness and internal controls of the AbilityOne Program related to Department of Defense (DoD) contracts, and report back to Congress on ways to eliminate waste, fraud, and abuse and ensure integrity and accountability for any violations of law or regulation; to recommend changes to business practices and IT systems to facilitate compliance with the Javits-Wagner-O’Day Act (41 U.S.C. §§8501-8506); and to establish Ability One Program training at the Defense Acquisition University pursuant to section 898 of the National Defense Authorization Act for Fiscal Year 2017. Other major responsibilities of the Panel, as required by section 898 and as stated in the Panel charter, are to make recommendations to increase employment opportunities for individuals who are blind or have severe<sup>4</sup> disabilities, and for employment of service-disabled veterans, and to explore opportunities for competition among qualified nonprofit agencies to ensure an equitable selection in work allocation. As described in a later section, seven Panel subcommittees have been established, each responsible for one aspect of the overall mission.

### **AbilityOne Program Background**

The AbilityOne Program is a Federal procurement program with the purpose of providing jobs in the manufacture and delivery of products and services to the Federal Government for people who are blind or have severe disabilities. The products and services are identified on a mandatory source AbilityOne Procurement List, which is implemented in the Federal Acquisition Regulation, Subpart 8.7. Over the years, the AbilityOne Program has grown to be the largest source of employment for people who are blind or have severe disabilities, with approximately 45,000 individuals, to include 3,000 veterans and veterans with disabilities, employed through Federal contracts in FY19. This AbilityOne workforce is employed by the over 500 participating AbilityOne nonprofit agencies (NPAs) located across the United States, Guam, and Puerto Rico.

The DoD is the largest customer of the Program and in FY19 contracting officials awarded approximately \$2.4 billion dollars in prime contracts for products and services to support the defense mission. Overall, in FY19, the AbilityOne Program received nearly \$3.6 billion in prime contracts across all Federal agencies.

In 1938, the Wagner-O'Day Act was passed, which created employment opportunities for people who are blind by authorizing the manufacturing of mops and brooms to sell to the Federal Government. In 1971, under the leadership of Senator Jacob Javits, Congress amended the Wagner-O'Day Act to include employment for people with severe disabilities and to expand the services provided to the Federal Government under the Program.

The AbilityOne Program is administered by the U.S. AbilityOne Commission--the operating name for the Committee for Purchase From People Who Are Blind or Severely Disabled—which is an independent Federal agency. The Commission is comprised of 15 presidential appointees, who are led by the Commission Chairperson. The Commission has support from 32 full-time professional staff, of which five are in the Office of Inspector General, recently created by Congress.



An AbilityOne employee working as an Assembler at Austin Lighthouse (Austin, Texas) in the warehouse facility that receives U.S. Army uniforms from bases across the country for intake. Employees launder and repair uniforms so that they may be reissued to soldiers around the U.S.

On December 18, 2015, the Consolidated Appropriations Act of 2016 (Public Law 114-113) amended the Inspector General Act of 1978 (IG Act) and created the Inspector General for the U.S. AbilityOne Commission. The AbilityOne Commission Inspector General is responsible for conducting audits and investigations and recommending policies and procedures to promote economy, efficiency, and effectiveness of agency programs and operations. The OIG is also responsible for preventing fraud, waste, abuse, and mismanagement in the agency. The IG Act requires the IG to keep the Commission Chairperson and Congress fully and currently informed about problems and deficiencies of the Commission and its operations.

The Javits-Wagner-O'Day (JWOD) Act (41 U.S.C. §§8502-8506) directs the AbilityOne Commission to designate Central Nonprofit Agencies (CNAs) to facilitate, by direct allocation, subcontract, or any other means, the distribution of Government orders of products and services among nonprofit agencies employing people who are blind or who have severe disabilities. The AbilityOne Commission has currently designated National Industries for the Blind (NIB), SourceAmerica (serving people with significant disabilities), and American Foundation for the Blind (AFB) as the national CNAs that perform functions to facilitate the participation of nonprofit agencies in the AbilityOne Program.

NPAs that employ people who are blind or have severe disabilities must meet the Commission's regulation for qualification at 41 C.F.R. 51-4.2 and 4.3. In order to be authorized to participate in the AbilityOne Program, at least 75 percent of a nonprofit agency's total direct labor hours

must be performed by people who are blind or who have severe disabilities. Employees in the Program must meet the statutory definition of a person who is blind or a person with a severe disability under the JWOD Act.

Historically, the CNAs have coordinated with contracting activities to jointly explore the products and services that may be suitable for provision by local nonprofit agencies. Once a potential Procurement List addition is identified, the CNA works with the contracting activity to obtain the data needed by the AbilityOne Commission to determine its suitability for the AbilityOne Program. In addition to the Commission's statutory duty to determine suitability, the JWOD Act authorizes the Commission to set a fair market price for each product or service on the AbilityOne Procurement List.

### **Panel Duties & Functions**

Pursuant to section 898(c), the Panel shall:

1. Review status/progress relating to implementation of recommendations in the DoDIG report 2016-097, "DoD Generally Provided Effective Oversight of AbilityOne Contracts," published June 17, 2016;
2. Recommend actions to eliminate waste, fraud, and abuse in contracts of the DoD and of AbilityOne;
3. Recommend actions the DoD and the AbilityOne Commission may take to ensure opportunities for the employment of significantly disabled veterans and for the blind and other individuals with severe disabilities;
4. Recommend changes to law, regulations, and policy necessary to eliminate vulnerabilities to waste, fraud, and abuse with respect to the performance of contracts of the DoD;
5. Recommend criteria for veterans with disabilities to be eligible for employment opportunities through programs of the U.S. AbilityOne Commission that considers the definition of disabilities used by the Secretary of Veterans Affairs and the AbilityOne Commission;
6. Recommend ways that the DoD and the AbilityOne Commission may explore opportunities for competition among qualified nonprofit agencies or central nonprofit agencies and ensure an equitable selection and allocation of work to qualified nonprofit agencies;
7. Recommend changes to business practices, information systems, and training necessary to ensure that (A) the AbilityOne Commission's compliance with regulations that establish and maintain the Procurement List requirements established pursuant to 41 U.S.C. § 8503; and (B) the DoD complies with the statutory and regulatory requirements for use of such Procurement List; and
8. Any other duties that are determined necessary by the Secretary of Defense.

### **Panel Membership**

As of December 2018, Mr. Kim Herrington, Acting Principal Director, Defense Pricing and Contracting, assumed the role of the Panel Chairman. Mr. Kenyata Wesley continues to serve as the Executive Secretary to the Panel. As specified in section 898, the Panel meets as determined necessary by the Chairman, but not less than once every four months.

The Panel consists of representatives of Office of the Secretary of Defense and its DoD Inspector General, the U.S. AbilityOne Commission, and the U.S. AbilityOne Commission Inspector

General, as statutory members. The Panel’s membership also consists of senior leaders and representatives from the military service branches, Department of Justice (DoJ), Department of Veterans Affairs (VA), Department of Labor, the General Services Administration, and the DAU. Section 898(a)(2) was specific in the composition of the Panel, and also provided discretion to the Panel Chairman in identifying other representatives, as needed. As identified in the first Report to Congress, the DoD organizations and other applicable organizations responded to the USD(AT&L) call for nominations. The Panel Chairman and Executive Secretary reviewed the nominations of the members to serve on the Panel, and identified members from other organizations. The Panel Chair added members from the Army Fellowship program and several other advisors to augment the Panel’s Veterans subcommittee responsible for defining the eligibility criteria to employ seriously wounded, ill, and injured veterans to the AbilityOne Program. The following organizations are represented on the Panel:

**Figure 01.** Panel Membership

<b>Representatives (Organizations)</b>	<b>Office/Position</b>
Panel Chairman	Office of the Under Secretary of Defense (Acquisition and Sustainment); Acting Principal Director, Defense Pricing and Contracting
Executive Secretary	Department of the Army, Army Contracting Command – Aberdeen Proving Ground (ACC-APG); Executive Director (SES)
U.S. AbilityOne Commission	Chairperson (SES)
U.S. AbilityOne Commission	Executive Director (SES)
U.S. AbilityOne Commission	Directorate of Veteran Employment Initiatives
Office of the Under Secretary of Defense (Acquisition and Sustainment)	Deputy Director, Defense Pricing and Contracting (SES)
Department of the Army	Deputy Assistant Secretary of the Army (Procurement) (SES)
Department of the Air Force	Associate Deputy Assistant Secretary of the Air Force (Contracting) (SES)
Department of the Navy	Deputy Assistant Secretary of the Navy; Naval Supply Systems Command, Assistant Commander for Contracting (SES)
Department of the Navy	Deputy Assistant Secretary of the Navy; Naval Facilities Command, Assistant Commander for Acquisition (SES)
Defense Logistics Agency	Troop Support, Acquisition Executive (SES)
Defense Contract Management Agency	Director, Contract Management Branch
Defense Contract Audit Agency	Assistant Director for Policy and Plans (SES)
Department of Defense Office of Inspector General	Assistant Inspector General for Contract Management and Payments (SES)
U.S. AbilityOne Commission Office of Inspector General	Inspector General (SES)
Air Force Audit Agency	Associate Director, Acquisition Division
Defense Acquisition University	Center Director for Contracting
Defense Health Agency	Director of Contracting (SES)

<b>Representatives (Organizations)</b>	<b>Office/Position</b>
U.S. Department of Justice	Office of the Assistant Attorney General, Civil Rights Division, Senior Counsel
U.S. Department of Justice	Civil Rights Division, Disability Rights Section, Deputy Chief
U.S. Department of Justice	UNICOR, General Counsel
U.S. Department of Justice	Office of the Inspector General, Deputy Assistant Inspector General for Investigations
U.S. Department of Labor	Office of Disability Employment Policy (ODEP), Senior Advisor
U.S. General Services Administration	Federal Acquisition Service, Office of Supplies and Services Categories
National Aeronautics and Space Administration	Headquarters, Procurement
U.S. Department of Education	Office of Special Education and Rehabilitative Services, Deputy Commissioner, Rehabilitation Services Administration
U.S. Department of Veterans Affairs	Vocational Rehabilitation and Employment (VR&E) Service; Director, Rehabilitations Services (SES)
National Veteran Small Business Coalition	Executive Director
In addition to the above membership, the Office of Management and Budget is included on the Panel email communications and invitations for meetings.	

### **Description of Panel Subcommittees**

The seven subcommittees are aligned with the duties of the Panel as outlined in section 898(c).

One subcommittee focuses on findings and recommendations in DoDIG-2016-097:

- Inspector General

Two others focus on employment within the AbilityOne Program:

- Employment Initiatives
- Veterans Eligibility

Four subcommittees focus on law and operations of the AbilityOne Program, including DoD contracting and how to eliminate the potential for fraud, waste, and abuse with respect to performance on DoD contracts:

- Waste, Fraud, and Abuse
- Laws and Regulations
- Acquisition and Procurement
- Business Process Re-engineering

1. **Subcommittee One: Inspector General** – This subcommittee is charged with reviewing the implementation of the DoDIG report findings and recommendations (DODIG-2016-097, <https://media.defense.gov/2016/Jun/17/2001714249/-1/-1/1/DODIG-2016-097.pdf>).

The IG found that the DoD contracting workforce is generally following the regulations for procuring products and services from the AbilityOne Program. Lead: U.S. AbilityOne Commission Office of Inspector General.

2. ***Subcommittee Two: Eliminate Waste, Fraud, and Abuse*** – This subcommittee is charged with recommending actions that the DoD and the AbilityOne Commission may take in order to eliminate waste, fraud, and abuse with respect to performance of contracts of the DoD and AbilityOne nonprofit agencies. Lead: Department of Justice.
3. ***Subcommittee Three: Employment Initiatives*** – This subcommittee is charged with recommending actions that would ensure opportunities for employment of veterans with significant disabilities and for employment of individuals who are blind or who have significant disabilities. Lead: Department of Veterans Affairs.
4. ***Subcommittee Four: Regulations and Law*** – This subcommittee is charged with recommending changes to law, regulations, and policy that the Panel determines necessary in order to eliminate vulnerability to waste, fraud, and abuse with respect to the performance of DoD contracts. Lead: Department of Justice.
5. ***Subcommittee Five: Veterans Eligibility*** – This subcommittee is charged with recommending criteria for veterans with disabilities to be eligible for employment opportunities through the programs of the AbilityOne Commission that consider the definitions of disability used by the Secretary of Veterans Affairs and the AbilityOne Commission. Lead: AbilityOne Commission.
6. ***Subcommittee Six: Acquisition and Procurement*** – This subcommittee is charged with recommending ways in which the DoD and the AbilityOne Commission may explore opportunities for competition among AbilityOne nonprofit agencies or central nonprofit agencies and for ensuring equitable selection and allocation of work. Lead: Department of the Air Force.
7. ***Subcommittee Seven: Business Process Re-engineering*** – This subcommittee is charged with recommending changes to business practices, information systems, and training necessary to ensure AbilityOne Commission and DoD compliance with regulations for use of the Procurement List. Lead: Defense Logistics Agency.

### **Meetings and Events in 2018 and 2019**

The Panel subcommittees meet regularly, as determined by the subcommittee lead, in order to make progress in achieving its mission. Below, in Figure 02, is a summary of the Panel meetings and events. Specifically, the activities that took place in 2018 following the Panel's submission of the first Report to Congress, and the Panel activities in 2019. During the meetings, Panel members shared information, ideas, and perspectives; reviewed status of implementing actionable recommendations; and heard from AbilityOne stakeholders. The membership includes representatives from agencies and departments who can offer expertise to accomplish the specified Panel duties.

**Figure 02.** Schedule of Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity Meetings and Events in 2018 and 2019

Date	Purpose
July 18, 2018	First Annual Report submitted to Congress
December 2018	New Panel Chair Named
December 4, 2018	Panel Meeting <ul style="list-style-type: none"> <li>• Commission update</li> <li>• DAU Training update</li> <li>• Planning for second Report to Congress</li> </ul>
February 13, 2019	Panel Meeting <ul style="list-style-type: none"> <li>• Input from central nonprofit agencies – SourceAmerica (CEO), National Industries for the Blind (CEO), American Foundation for the Blind (Representative)</li> <li>• Subcommittee status reports</li> </ul>
April 17-18, 2019	Panel Chair hosted a Subcommittee Lead Off-site <ul style="list-style-type: none"> <li>• Subcommittee leads presented for review the details of the respective findings and actionable recommendations</li> <li>• Finalized implementation plans for Panel recommendations</li> <li>• SourceAmerica Affiliated NPAs participated in Subcommittee Discussion (PCSI, Pride, and Skookum)</li> </ul>
May 2, 2019	Panel Meeting <ul style="list-style-type: none"> <li>• Input from two nonprofit agency associations – the NCSE (President) and the NAEPB (President); three AbilityOne employees also attended</li> <li>• Subcommittees presented implementation plans for Panel recommendations</li> </ul>
August 28, 2019	Panel Meeting <ul style="list-style-type: none"> <li>• Input from the central nonprofit agency - American Foundation for the Blind (CEO)</li> <li>• DAU Training update</li> <li>• Pilots (Appendix E) initiated for Panel recommendations</li> <li>• Report to Congress coordination/schedule</li> </ul>

**Outreach and Consultation**

In accordance with section 898, consultation with the CNAs and NPAs has been ongoing. Below, in Figure 03, is a table of stakeholder outreach with the CNAs and NPAs. This list does

not include the multiple meetings and communications between the subcommittees and the CNAs and NPAs. The written inputs received by the CNAs, NCSE, NAEPB, or NPAs are included in Appendix F. The respective written documents were shared with the Panel members and subcommittee leads.

**Figure 03.** External Outreach Events with Stakeholders

Date	Purpose
October 16, 2018	Commission Public Meeting hosted at U.S. AbilityOne Commission.
November 30, 2018	Acting Principal Director, DPC (Panel Chair) met with the U.S. AbilityOne Commission Executive Director and Deputy Executive Director.
January 8, 2019	Panel Chair met with the President of the National Association for the Employment of People Who Are Blind (NAEPB) and the CEOs of two nonprofit agencies (BOSMA and Envision).
January 21-22, 2019	NIB/NAEPB Annual Conference
January 25, 2019	Panel Chair met with SourceAmerica leadership.
January 30, 2019	Panel Chair met with NIB leadership.
February 4, 2019	U.S. AbilityOne Commission hosted SourceAmerica/National Council for SourceAmerica Employers (NCSE) NPA CEO Roundtable discussion in Tysons Corner, VA.*
February 5, 2019	Panel Chair spoke at the NCSE Senior Leadership Conference. The Chair gave remarks to approximately 400 attendees who represented over 60 nonprofit agencies from across the country; the majority hold contracts with the Department of Defense. Key topics addressed included the 898 Panel recommendations, incentives, pricing, and acquisition workforce training.
February 13, 2019	Invited presenters at the Panel Meeting: President and CEO of SourceAmerica; President and CEO of NIB; President and CEO of AFB; President of ServiceSource, a nonprofit agency in the SourceAmerica network, addressed the Panel and her team along with the Washington Headquarters Service (WHS) gave the Panel a tour of the AbilityOne Total Facilities Management (TFM) operation at the Mark Center. The Panel heard from dozens of the AbilityOne employees employed by ServiceSource and performing TFM services at the Mark Center.
February 28, 2019	Panel Chair met with the Panel members and senior staff participants from the Department of Justice.
March 7, 2019	Panel Chair met with the DAU member and senior staff participants from DAU.

Date	Purpose
March 11, 2019	U.S. AbilityOne Commission hosted SourceAmerica/NCSE NPA CEO Roundtable discussion via teleconference.*
March 14, 2019	The Panel's Laws and Regulations subcommittee hosted representatives from the AbilityOne CNAs: AFB, NIB, and SourceAmerica, at the subcommittee meeting, at which the CNAs presented feedback on the recommendations.
April 9, 2019	U.S. AbilityOne Commission hosted SourceAmerica/NCSE NPA CEO Roundtable discussion in Arlington, VA and via teleconference/skype.*
April 30, 2019	Panel Chair spoke at the 2019 NIB/NAEPB National Symposium. The Chair gave keynote remarks at the General Session that addressed the Panel's overall mission to recommend ways to improve oversight, transparency, accountability, and employment within the AbilityOne Program, and enhanced training for the Federal contracting workforce. The Chair specifically addressed communications between the Panel and the AbilityOne Program CNAs and their associations.
April 30, 2019	The Panel's Laws and Regulations subcommittee did a site visit at VersAbility Resources in Hampton, Virginia.
May 2, 2019	Presenters at the Panel Meeting: President of the NCSE; President of the NAEPB.
May 20-23, 2019	SourceAmerica National Achievement Conference hosted Section 898 Panel discussion. The Panel Chair, Subcommittee 6 Leader, and AbilityOne Executive Director addressed some of the Panel's recommendations and methodologies for implementation.
May 22, 2019	Commission Public Meeting hosted at SourceAmerica Annual Training & Achievement Conference.
May 22, 2019	U.S. AbilityOne Commission hosted SourceAmerica/NCSE NPA CEO Roundtable discussion in Anaheim, CA.*
June 19, 2019	U.S. AbilityOne Commission hosted NIB/NAEPB NPA CEO Roundtable discussion via teleconference.*
July 25, 2019	Commission Public Meeting hosted at NIB Headquarters.
August 1, 2019	Panel Chair met with the CEO of the NIB.
September 23-24, 2019	Panel Chair and a senior staff member from DPC participated in meetings and spoke with AbilityOne employees at Alphapointe, an NIB associated agency.

Date	Purpose
September 25, 2019	The Panel's Laws and Regulations subcommittee hosted a representative from SourceAmerica at the subcommittee meeting to discuss the direct labor hour ratio pilot program.
September 26, 2019	Panel Chair met with the CEO of the American Foundation for the Blind.
October 16, 2019	Commission Public Meeting hosted at 2019 NIB/NAEPB Training Conference & Expo.
Oct 16-17, 2019	Panel Chair gave keynote remarks at the 2019 NIB/NAEPB Training Conference & Expo. A senior staff member from DPC gave a status update of the Panel recommendations at the Air Force AbilityOne Representatives session. The three CNA CEOs and respective staff were in attendance. An update of the Section 898 Panel business was also addressed by the Commission Chairperson and Executive Director during the quarterly public U.S. AbilityOne Commission meeting held during the conference.

\*Roundtable discussions were focused on implementing recommendations, impact of recommendations, and obtaining CNA/NPA feedback.

### Summary of Recommendations

The Panel provided 41 recommendations in the first Report to Congress. Through the Panel proceedings over the past year, 15 of the recommendations were determined to be similar and



Winston-Salem Industries for the Blind (d/b/a IFB Solutions) received special recognition from the U.S. soldiers at Bagram Air Base in Afghanistan thanking IFB employees for producing the Advanced Combat Shirts worn by them in this photo.

have been combined. Furthermore, several of the recommendations were realigned from one subcommittee to another for implementation. Based on these changes, the Panel is tracking 26 recommendations, 5 of which have been completed and 2 are partially completed. The balance of the recommendations are in various stages of implementation. Figure 04 is the Summary of Recommended Actions. It reflects all these changes and includes the action status for each recommendation and the lead agency for implementation. Appendix G is a list of the consolidated 26 Panel recommendations.

Figure 04. Summary of Recommended Actions

#	Recommendation	Action Status	Lead Agency for Implementation
<b>Subcommittee One: Inspector General</b>			
1	Implement existing policy by DoD requiring Contracting Officers to check the AbilityOne Procurement List and take training on the AbilityOne Program.	Completed in 2018 and 2019	OUSD(A&S)/D PC
2	U.S. AbilityOne Training must be continually updated as Panel recommendations are implemented.	Completed in 2018 and 2019	DAU
<b>Subcommittee Two: Eliminate Waste, Fraud, and Abuse</b>			
<p>The following recommendation has been realigned and will now be tracked under Subcommittee Six (Acquisition and Procurement): Increase transparency in CNAs' nonprofit agency recommendation processes with mandatory criteria and certifications.</p> <p>The following recommendation has been realigned and will now be tracked under Subcommittee Seven (Business Process Re-Engineering): Build a centralized database on pricing, and require fair market pricing documentation and prevailing wage documentation in contracts and negotiation processes between CNAs and NPAs.</p>			
3	Increase oversight and strengthen audit coverage.	In-Process	AbilityOne Commission OIG
4	Impose stricter requirements on NPAs for documentation and disability determinations.	In-Process	U.S. AbilityOne Commission
5	Prohibit Use of Program Fee for Lobbying Expenses.	Completed, congressional request to GAO recommended	U.S. AbilityOne Commission
<b>Subcommittee Three: Employment Initiatives</b>			
<p>The following two original recommendations from Subcommittee Three are related and have been combined into a new updated recommendation, which will be tracked by Subcommittee Five (Veterans Eligibility):</p> <ul style="list-style-type: none"> <li>• Develop training and certification/validation programs for the AbilityOne Individual Eligibility Evaluation (IEE).</li> <li>• Consider Acceptance of Outside (Veterans Affairs/State/Contracted) IEE submissions, as feasible.</li> </ul>		In-Process	U.S. AbilityOne Commission working with the network of CNAs and NPAs
<p>The following four original recommendations from Subcommittee Three are related and have been combined into a new updated recommendation, which will be tracked by Subcommittee Five (Veterans Eligibility):</p>		In-Process	U.S. AbilityOne Commission working with the

#	Recommendation	Action Status	Lead Agency for Implementation
	<ul style="list-style-type: none"> <li>Better define AbilityOne Program participant career goals leading to a career path.</li> <li>Establish an AbilityOne Commission eligibility and employment "cell" of qualified personnel who are occupational therapists, Vocational Rehabilitation Counselors (VRCs), and Licensed Clinical Social Workers, and other similar qualifications.</li> <li>Use AbilityOne Program participant 'mapping' against established disability employment programs (e.g., Vocational Rehabilitation and Employment Services/Compensated Work Therapy/Wounded Warrior programs, etc.) in order to enable NPA hiring for AbilityOne.</li> <li>Further define, measure and track AbilityOne Program employment outcomes.</li> </ul>		network of CNAs and NPAs
6	Further Study the need for and benefits of program wide implementation of case management records and protocols with defined vocational goals/assessments for all AbilityOne qualified nonprofit agencies.	In-Process	U.S. AbilityOne Commission working with the network of CNAs and NPAs
<b>Subcommittee Four: Laws and Regulations</b>			
7	Amend the Javits-Wagner-O'Day Act's 75% Direct Labor Hour ratio requirement, 41 U.S.C. §§ 8501(6)(C), (7)(C), to provide for a range of direct labor hour percentages to promote employment of individuals with disabilities in integrated work environments, and provide for implementation requirements and guidelines.	Recommendation in development phase, including consideration of data studies, engagement with new direct labor hour ratio pilot program, and NPA site visits	DOJ to propose Congressional action
8	Amend the Javits-Wagner-O'Day Act's definition of "Direct labor," 41 U.S.C. §§ 8501(3), to encourage upward mobility and hiring of people with disabilities in supervisory and other indirect labor positions.	Recommendation in development phase, including continued solicitation and incorporation of	DOJ to propose Congressional action

#	Recommendation	Action Status	Lead Agency for Implementation	
		stakeholder feedback.		
9	Amend the Javits-Wagner-O’Day Act’s definition of “severely disabled,” 41 U.S.C. §§ 8501(5) and (8), to eliminate the presumption that eligible individuals are not competitively employable and to clarify and institute a workable definition.	Proposed legislative language included in this report	DOJ to propose Congressional action	
The following two original recommendations from Subcommittee Five (Veterans Eligibility) are related and have been combined into a new updated recommendation that will be tracked by Subcommittee Four.				
	Original	Updated		
10	<ul style="list-style-type: none"> <li>Amend the definition of “severely disabled individual” and “normal competitive employment” to allow veterans in VA’s Vocational Rehabilitation and Employment (VR&amp;E), Compensated Work Therapy (CWT) and the Military Services Wounded, Ill, and Injured and other appropriate programs to participate in the AbilityOne program.</li> <li>Revise the definition of the severely disabled individual, so it does not state that participants are “unable to engage in competitive integrated employment” which may allow the Veterans Affairs (VRE/CWT) and the State Vocational Rehabilitation (VR) programs to refer veterans to participating NPAs in the AbilityOne Program.</li> </ul>	Amend the Javits-Wagner-O’Day Act’s definition of “severely disabled,” 41 U.S.C. §§ 8501(5) and (8), to eliminate the presumption that eligible individuals are not competitively employable and to clarify and institute a workable definition.	Proposed legislative language included in this report	Dept. of Justice
<b>Subcommittee Five: Veterans Eligibility</b>				
The following two original recommendations from Subcommittee Five are related and have been combined into a new updated recommendation, which will be tracked by Subcommittee Four (Laws and Regulations):		Proposed legislative language included in this report	Dept. of Justice	

#	Recommendation	Action Status	Lead Agency for Implementation				
	<ul style="list-style-type: none"> <li>Amend the definition of “severely disabled individual” and “normal competitive employment” to allow veterans in the Veterans Affairs Vocational Rehabilitation and Employment (VR&amp;E), Compensated Work Therapy (CWT) and the Military Services Wounded, Ill, and Injured and other appropriate programs to participate in the AbilityOne program.</li> <li>Revise the definition of the severely disabled individual, so it does not state that participants are “unable to engage in competitive integrated employment” which may allow the Veterans Affairs (VRE/CWT) and VR to refer veterans to participating NPAs in the AbilityOne Program.</li> </ul>						
11	Work with Veterans Affairs and the Department of Education on feasibility, impact, and implementation of recommendations that rely on their determination of veteran and non-veteran eligibility for the AbilityOne Program.	In-Process, Commission’s Apprenticeship Pilot to be initiated in 2020	U.S. AbilityOne Commission, Veterans Affairs, and the Dept of Labor				
The following two original recommendations from Subcommittee Three (Employment Initiatives) are related and have been combined into a new updated recommendation, which will be tracked by Subcommittee Five.							
12	<table border="1"> <thead> <tr> <th data-bbox="237 1242 602 1278">Original</th> <th data-bbox="602 1242 959 1278">Updated</th> </tr> </thead> <tbody> <tr> <td data-bbox="237 1278 602 1874"> <ul style="list-style-type: none"> <li>Develop training and certification/validation programs for the AbilityOne Individual Eligibility Evaluation (IEE).</li> <li>Consider Acceptance of Outside (Veterans Affairs/State/Contracted) IEE submissions, as feasible.</li> </ul> </td> <td data-bbox="602 1278 959 1874">           Develop a certification/validation program for individuals certifying the IEE form. Consider accepting Veterans Affairs or State IEE submissions, or provide a contracting eligibility assessment of individuals whose IEE is not provided by the VA or a State Vocational Rehabilitation Agency.         </td> </tr> </tbody> </table>	Original	Updated	<ul style="list-style-type: none"> <li>Develop training and certification/validation programs for the AbilityOne Individual Eligibility Evaluation (IEE).</li> <li>Consider Acceptance of Outside (Veterans Affairs/State/Contracted) IEE submissions, as feasible.</li> </ul>	Develop a certification/validation program for individuals certifying the IEE form. Consider accepting Veterans Affairs or State IEE submissions, or provide a contracting eligibility assessment of individuals whose IEE is not provided by the VA or a State Vocational Rehabilitation Agency.	In-Process, creating an OPM form that CNAs, in collaboration with the VA, Dept of Labor, DoD, and the Commission, will use to refer Veterans.	U.S. AbilityOne Commission, the Veterans Affairs, and Network of CNAs and NPAs
Original	Updated						
<ul style="list-style-type: none"> <li>Develop training and certification/validation programs for the AbilityOne Individual Eligibility Evaluation (IEE).</li> <li>Consider Acceptance of Outside (Veterans Affairs/State/Contracted) IEE submissions, as feasible.</li> </ul>	Develop a certification/validation program for individuals certifying the IEE form. Consider accepting Veterans Affairs or State IEE submissions, or provide a contracting eligibility assessment of individuals whose IEE is not provided by the VA or a State Vocational Rehabilitation Agency.						
The following four original recommendations from Subcommittee Three (Employment Initiatives) are related							

#	Recommendation	Action Status	Lead Agency for Implementation	
	and have been combined into a new updated recommendation, which will be tracked by Subcommittee Five.			
	Original	Updated		
13	<ul style="list-style-type: none"> <li>• Clarify AbilityOne Program participant career goals leading to a career path.</li> <li>• Establish an AbilityOne Commission eligibility and employment ‘cell’ of qualified personnel who are occupational therapists, Vocational Rehabilitation Counselors (VRCs), and Licensed Clinical Social Workers, and other similar qualifications.</li> <li>• Use AbilityOne Program participant ‘mapping’ against established disability employment programs (e.g., Vocational Rehabilitation and Employment Services/Compensated Work Therapy/Wounded Warrior programs, etc.) in order to enable NPA hiring for AbilityOne.</li> <li>• Further define, measure and track AbilityOne Program employment outcomes.</li> </ul>	Develop a goal for Veterans to be integrated into the workforce under internships, part-time, or full-time employment opportunities and scale NPA employment based on goals/objectives/outcomes.	In-Process	U.S. AbilityOne Commission, the Veterans Affairs, and Network of CNAs and NPAs



#	Recommendation	Action Status	Lead Agency for Implementation	
The following two original recommendations are related and have been combined into a new updated recommendation:				
	Original	Updated		
16	<ul style="list-style-type: none"> <li>Establish policy and business rules for competition and re-competition within the AbilityOne Program.</li> <li>Establish an AbilityOne policy outlining situations for re-competing/reassigning work among NPAs.</li> </ul>	Establish business rules for competition and assignment of work among AbilityOne Program NPAs.	Competition Pilot initiated in 2019	U.S. AbilityOne Commission
17	Establish penalties if a CNA or NPA does not follow policies and procedures.	Partially completed, the Commission has penalties for CNAs in the respective Cooperative Agreements, but requires CFR revisions, which are in-process	U.S. AbilityOne Commission	
18	Reduce the existing gaps and deficiencies in CNAs' processes.	Subcommittee completed assessment of processes with the CNAs in 2019; Commission policies will be updated following the results of the Competition pilot in-process	U.S. AbilityOne Commission	
19	Revise 41 CFR 51 to include information regarding undesignation of CNAs and deauthorization of NPAs as the authorized source on the Procurement List.	In-Process	U.S. AbilityOne Commission	
<b>Subcommittee Seven: Business Process Re-engineering</b>				

#	Recommendation	Action Status	Lead Agency for Implementation	
The following four original recommendations are related and have been combined into a new updated recommendation:				
	Original	Updated		
20	<ul style="list-style-type: none"> <li>• Commission staff will update the online Procurement List (PL) to reflect detailed information and improve the search functions to enable a more user-friendly interface.</li> <li>• Recommend contracting systems across DoD be modified to add “flagged checkpoints” requiring the Contracting Officer to ensure mandatory sources (AbilityOne Program) have been searched before the order can be processed.</li> <li>• Update the programs to send up “flags” without easy bypass and require a typed justification for audit purposes to help increase the use of the PL.</li> <li>• Make the AbilityOne Procurement List Information Management System (PLIMS) available to DoD contracting personnel to check status of contracts, decision documents, and other pertinent information: Include the up-to-date Fair Market Price.</li> </ul>	Update the Procurement List Information Management System (PLIMS) to reflect detailed information, improve the search functions to enable a more user-friendly interface, and make usable for outside agencies.	In-Process	U.S. AbilityOne Commission with DPC & DoD support
21	Deploy an IT solution utilizing a system where the PL can be linked to existing contracting vehicles or develop a common system that routes purchases through the PL prior to other avenues.		In-Process	U.S. AbilityOne Commission with DoD & DPC support
The following original recommendation from Subcommittee Two (Eliminate Waste, Fraud, and Abuse) has been realigned and will be tracked by Subcommittee Seven:		In-Process		

#	Recommendation	Action Status	Lead Agency for Implementation
22	Build a centralized pricing database, require fair market pricing and prevailing wage documentation in contracts with Federal customers.	In-Process	U.S. AbilityOne Commission with DoD and DPC support
23	Implement DoD wide policy to designate an AbilityOne Representative (ABOR) program similar to the Air Force model and include a goal for growth in AbilityOne Program participation.	In-Process	DPC and U.S. AbilityOne Commission
The following two original recommendations are related and have been combined into a new updated recommendation:			
	Original	Updated	
24	<ul style="list-style-type: none"> <li>• Recommend interim DFARS Procurement, Guidance, and Information (PGI) revision until the Federal Acquisition Regulation (FAR) can be modified to incorporate a detailed change to business practices, information systems, and training for a proper use of the PL.</li> <li>• Develop separate part in the FAR, in addition to FAR 8.7, detailing how to do business with AbilityOne (use reserved section).</li> </ul>	Pursue DFARS (PGI language) to detail how to do business with the AbilityOne Program.	In-Process  DPC and U.S. AbilityOne Commission
25	Recommend change to allotted timeframe currently required by the Administrative Procedures Act when adding products or services to the Procurement List.	In-Process	U.S. AbilityOne Commission working with the Network of CNAs and NPAs
<p>The following two original recommendations are similar to recommendations #24 and #25 and will no longer be tracked separately by Subcommittee Seven:</p> <ul style="list-style-type: none"> <li>• Recommend changes/additions to local regulations/procedures to enhance ability of DoD contracting personnel to check the PL before making purchases.</li> <li>• Recommend DoD-wide policy memo emphasizing the importance of making purchases through the AbilityOne Program using the Procurement List,</li> </ul>			

#	Recommendation	Action Status	Lead Agency for Implementation
	establishing a goal for growth in AbilityOne Program participation, and requiring the use of AbilityOne representatives.		
26	Incorporate Section 508 training for contracting personnel to address DoD-wide section 508 compliance shortfall and use DAU online and classroom training to teach AbilityOne information.	Completed in 2019	DPC and DAU

## **Section II: Discussion of Panel Recommendations**

### **Subcommittee One: Inspector General**

Lead Agency: Inspector General, OIG, U.S. AbilityOne Commission

#### **Recommendations**

1. Implement existing policy by DoD requiring Contracting Officers to check the AbilityOne PL, and take training on the AbilityOne Program.
2. U.S. AbilityOne training at the Defense Acquisition University (DAU) must be continually updated as Panel recommendations are implemented.

#### **Discussion**

The IG subcommittee reported to the Panel on the positive implementation and completion of the recommendations in their area of responsibility. However, the IG subcommittee stresses continued emphasis on training for procurement of products and services from the U.S. AbilityOne Program.

**Panel Recommendation 1:** Implement existing policy by DoD requiring Contracting Officers to check the AbilityOne PL, and take training on the AbilityOne Program.

#### **Current State:**

Panel Recommendation 1 was implemented through two different memorandums issued by Defense Pricing and Contracting (DPC), within the Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S)). The first memorandum was signed by the Director, Defense Procurement and Acquisition Policy (now DPC) on November 1, 2017. The memorandum reminded contracting officials to check the AbilityOne PL as part of the market research process and, at the time of contract award, to determine whether a product or service is on the list. The guidance also stated that if a required product or service is not on the PL, the DoD customer may work with the U.S. AbilityOne Commission to add it to the list.

The second memorandum, signed by the Principal Director, DPC, on October 11, 2019, (Appendix H) reiterated the requirement for contracting officials to check the AbilityOne PL to determine if a required product or service is on the list. The policy memorandum also provided the link to the U.S. AbilityOne training on the DAU website.

**Panel Recommendation 2:** U.S. AbilityOne training at the Defense Acquisition University (DAU) must be continually updated as Panel recommendations are implemented.

#### **Current State:**

Panel Recommendation 2 was implemented through a memorandum signed by the Principal Director, DPC on September 7, 2018. The memorandum created and implemented a policy mandating all personnel assigned to the DoD Contracting and Purchasing Acquisition Career Fields complete the Continuous Learning Module (CLM) 023 “DAU AbilityOne Training” in FY 2019. The existing CLM 023 was updated in collaboration between DAU, the U.S.

AbilityOne Commission, and the DoD OUSD(A&S) Contracting Functional IPT (chaired by the Principal Director, DPC) and deployed May 7, 2018. The updated training addresses the section 898(l) provision of the FY 2017 NDAA to include specific information about the AbilityOne Program and the mission of the U.S. AbilityOne Commission. It addresses the DoDIG recommendations to clearly articulate the roles and responsibilities of contracting officers when procuring from AbilityOne, in accordance with the purchasing priorities of the Federal Acquisition Regulation (FAR), Part 8.002 and Subpart 8.7.

To date, over 85 percent of the 31,000 members of the contracting and purchasing workforce have successfully completed the comprehensive training. Adding in other acquisition workforce members, Federal agencies, and industry partners, a total of 59,037 individuals have taken the training.

This is a significant action completed as a result of the statutory requirements for the Panel and the recommendation by Subcommittee One, led by the U.S. AbilityOne Commission Inspector General. The training is educating the workforce about the AbilityOne Program and will help ensure that the DoD continues to lead the efforts to create job opportunities for individuals who are blind, visually impaired, or have significant disabilities.

At the end of August 2019, the DAU Director, Center for Contracting and Small Business, posted a blog reminder for the workforce to take CLM 023, DAU AbilityOne Training, by September 30, 2019. To ensure all members of the contracting and purchasing workforce received notice of the training requirement, DAU issued an email via the DAU List Mailer on September 3, 2019.

Table 01 provides the total graduation statistics data for CLM 023, as of October 18, 2019.

	<b>Oct 1, 2017 – May 6, 2018</b>	<b>May 7 – Sept 30, 2018*</b>	<b>Fiscal Year 2019</b>
Army	8,060	4,758	22,881
Navy	241	162	6,799
Air Force	2,445	4,545	20,415
Fourth Estate - DoD	352	450	7,938
Federal Government	59	62	532
Industry and Other	126	63	472
<b>TOTAL</b>	<b>11,282</b>	<b>10,041</b>	<b>59,037</b>
*Data after updated CLM 023 deployed			

**Table 01.** CLM 023 Graduation Statistics

Subcommittee One implemented its initial recommendations, however, the IG subcommittee is recommending expansion of efforts in training and education that will help maintain the utilization of the AbilityOne Program. During the CNA 898 Panel Outreach sessions with NIB

and SourceAmerica, the IG subcommittee learned of the benefits of promoting the CLM 023 training government-wide and expanding from a DoD-only platform. At the CNA 898 Panel Outreach sessions, multiple NPAs gave examples of instances where, outside DoD, contracting officers in government agencies and departments made procurement decisions without understanding their roles and responsibilities concerning the AbilityOne Program.

## **Subcommittee Two: Eliminate Waste, Fraud, and Abuse**

Lead Agency: U.S. Department of Justice

### **Recommendations**

3. Increase oversight and strengthen audit coverage.
4. Impose stricter requirements on NPAs for documentation and disability determinations.
5. Prohibit use of the Program fee for lobbying expenses.

The following original recommendation has been realigned and will now be tracked under Subcommittee Six (Acquisition and Procurement):

- Increase transparency in CNAs' nonprofit agency recommendation processes with mandatory criteria and certifications.

The following original recommendation has been realigned and will now be tracked under Subcommittee Seven (Business Process Re-engineering):

- Build a centralized database on pricing, and require fair market pricing documentation and prevailing wage documentation in contracts and negotiation processes between CNAs and NPAs.

The recommendations under the Subcommittee Two (Eliminate Waste, Fraud, and Abuse) area of responsibility are in various stages of implementation, as discussed below.

**Panel Recommendation 3:** Increase oversight and strengthen audit coverage.

### **Current State:**

The AbilityOne Commission has an Oversight and Compliance Office that has the program responsibility to ensure that requirements relating to NPA employees' disability status and direct labor hours are followed. The Oversight and Compliance Office accomplishes this through conducting compliance visits and oversight reviews. The AbilityOne Commission (including its Oversight and Compliance Office) is, in turn, subject to oversight from the AbilityOne Commission, OIG, which has full authority over the programs and operations of the agency. Presently, neither the Oversight and Compliance Office nor the OIG have the budgets necessary to fund sufficient staff to fulfill each of their functions. The Oversight and Compliance Office is a long-established part of the agency. However, the OIG is a new office and requires full

funding to exercise its oversight responsibilities over AbilityOne and its \$3.6 billion program, which includes approximately 500 NPAs. Providing this comprehensive oversight requires dedicated and sufficient resources for the start-up activities of the OIG.

The OIG is so significantly under-resourced that all previous budget increases had to be allocated to contracts for almost all audit services, and were not used to build the necessary OIG staffing levels. The OIG's budget for FY 2019 was \$1.25 million, which was only sufficient to fund five employees. The OIG needs a budget of \$4.6 million to hire needed personnel of 16 full-time employees (FTEs), obtain case management systems, develop the office of investigations, staff that office with criminal investigators in the 1811 series (special agents), and build an office of audit staff with a functional team of auditors. The OIG audits, which are of interest to Congress and other stakeholders, will also require OIG to use at least \$500,000 of resources to enter into OIG initiated contracts for services with outside auditing entities to enable the OIG to execute its issued, two-year audit plan.

The Oversight and Compliance Office's budget is incorporated within the Commission's overall budget, which totaled \$7.25 million for programmatic agency's mission (not OIG functions) in FY 2019. The Commission allocated an estimated \$1.011 million of that total to personnel, benefits, and travel relating to the Oversight and Compliance Office, which currently has four FTEs. The Commission's headquarters-based compliance team issues policy guidance, conducts inspections, reviews annual certifications, and provides training. The Oversight and Compliance Office needs a budget of \$2.309 million to hire sufficient personnel to conduct on-site compliance investigations at each NPA over an eighteen-month cycle. Specifically, this would require a staff of seven to eight compliance inspectors, divided between headquarters, the Western regional field office, and a new Central regional field office; management officials and specialists to look at CNA compliance, the Procurement List Information Management System (PLIMS), and contract compliance; and three Vocational Rehabilitation (VR) specialists, and administrative support.

**Courses of Action:**

The White House has submitted its budget request for FY 2020. The Panel urges the Congress to appropriate to the Commission (for oversight and compliance) and to the OIG, no less than the amounts requested for each. The proposed budget seeks \$1.65 million for the OIG, which would enable them to hire an Assistant Inspector General for Investigations and an Administrative Officer. It also seeks an appropriation for the Commission that would result in an estimated budget of \$1.338 million for the Oversight and Compliance Office, which would enable headquarters and the Western field office to hire one new full-time compliance inspector each.

As detailed above, both offices will need additional staffing to be able to carry out all of their responsibilities, due to the growing complexity of the Commission's \$3.6 billion program. These responsibilities will increase from the additional reforms that the Panel is concurrently recommending and will recommend in the future.

**Implementation Plan/Timeline: 2021**

**Panel Recommendation 4:** Impose stricter requirements on NPAs for documentation and disability determinations.

**Current State:**

Last year, this Subcommittee found determinations of individual eligibility for the AbilityOne Program are potentially affected by bias. Additionally, NPA performance on JWOD requirements is difficult to evaluate, due to poor or complicated data/record-keeping and tracking of hours. Currently, NPAs are permitted to use their own staff members or other non-independent evaluators to determine eligibility. With respect to record-keeping and tracking of data, the NPAs are still operating based on guidance from the Commission's Compliance Manual published in 2007, but the Commission is in the process of releasing a new compliance manual. The Commission estimates the new compliance manual will be released in quarter two (Q2) of FY 2020.

**Courses of Action:**

When determining eligibility, the subcommittee recommends that the Commission require NPAs to use evaluators who are independent from the NPAs for every employee's initial evaluation. While requiring independent evaluators may impose some burden on NPAs, this burden can be mitigated in three ways. First, the requirement to use independent evaluators could be limited to new employees, while NPA staff could be permitted to conduct subsequent annual evaluations. Second, for new employees who have recently received an eligibility determination from a government agency, e.g. a state vocational rehabilitation office or a state office of developmental disability services, the Commission could instruct NPAs to rely on those government agency determinations. Third, a NPA's current employees whose eligibility has never been evaluated in a manner consistent with the above standards would not be "grandfathered" and would therefore need to be independently evaluated going forward, but a gradual phase-in period of one year (with the potential for a one-year extension upon request to the Commission) would be permitted. The Commission believes that these changes can be implemented by issuing updated guidance to NPAs, although any resulting updates to forms would require the Office of Management and Budget clearance.

The issue of poor tracking of hours and record-keeping (including records pertaining to eligibility determinations) will be mitigated by the Commission's release of its new compliance manual, expected in Q2 FY 2020. The subcommittee will provide feedback to the Commission regarding the new compliance manual's requirements on these topics.

**Implementation Plan/Timeline: 2020****Panel Recommendation 5: Prohibit use of the Program Fee for Lobbying Expenses****Current State:**

FAR Part 31 prohibits government contractors from using Federal contract funds on lobbying and political activities. However, CNAs use their program fees for lobbying on the basis that the fees do not come directly from Federal government agencies, but from the NPAs. The Government Accountability Office (GAO) has never issued a formal opinion on whether CNAs' program fees are subject to any restriction on lobbying, given the uniqueness of the AbilityOne Program's structure within the Federal government. CNAs' activities can be restricted pursuant to the terms of the cooperative agreements they sign with the AbilityOne Commission, but the Commission does not believe it could effectively require, by contract, that CNAs not use their

program fees on lobbying, since the Commission does not have authority to direct CNAs use of program fees collected from NPAs.

**Courses of Action:**

The Panel recommends that Congress enact legislation closing the loophole that allowing CNAs to use program fees for lobbying. GAO prioritizes congressional requests for opinions over agency requests. Therefore, Congress may seek a formal opinion from the GAO as to whether program fees may be used for lobbying under current law.

**Implementation Plan/Timeline:** 2020

**Subcommittee Three: Employment Initiatives**

Lead Agency: U.S. Department of Veterans Affairs

**Recommendations**

6. Further study the need for and benefits of program wide implementation of case management records and protocols with defined vocational goals/assessments for all AbilityOne qualified nonprofit agencies.



An AbilityOne employee on the production sewing team at the Vocational Guidance Services in Cleveland, sewing military uniforms for the U.S. Armed Forces.

The following two original recommendations are related and have been combined into a new updated recommendation, which will now be tracked under Subcommittee Five (Veterans Eligibility): Develop a certification/validation program for individuals certifying the IEE form and consider acceptance of VA or State IEE submissions, or contracting for eligibility assessment of individuals whose IEE is not provided by the VA or a State Vocational Rehabilitation Agency.

- Develop training, and certification/validation programs for the AbilityOne Individual Eligibility Evaluation (IEE).
- Consider Acceptance of outside (Veterans Affairs/State/Contracted) IEE submissions, as feasible.

The following four original recommendations are related and have been combined into a new updated recommendation, which will now be tracked under Subcommittee Five (Veterans Eligibility): Develop a goal for Veterans to be integrated into the workforce under internships, part-time, or full-time employment opportunities and scale NPA employment based on goals/objectives/outcomes.

- Better define AbilityOne Program participant career goals leading to a career path.
- Establish an AbilityOne Commission eligibility and employment ‘cell’ of qualified personnel who are occupational therapists, Vocational Rehabilitation Counselors (VRCs), and Licensed Clinical Social Workers, and other similar qualifications.
- Use AbilityOne Program participant ‘mapping’ against established disability employment programs (e.g., Vocational Rehabilitation and Employment Services/Compensated Work Therapy/Wounded Warrior programs, etc.) in order to enable NPA hiring for AbilityOne.
- Further define, measure and track AbilityOne Program employment outcomes.

**Panel Recommendation 6:** Further study the need for and benefits of program wide implementation of case management records and protocols with defined vocational goals/assessments for all AbilityOne qualified nonprofit agencies.

**Current State:**

This process is currently being conducted by NPAs that support State Vocational Rehabilitation Program as authorized under Title I of the Rehabilitation Act of 1973, as amended.

**Courses of Action:**

Subcommittee Three will work with the AbilityOne Commission and CNAs to identify stakeholders and resources necessary to further study the need for, and benefits of, program wide implementation of case management records and protocols with defined vocational goals/assessments for all AbilityOne qualified nonprofit agencies. A working group of qualified individuals will be established to identify vocational goals based on current and future employment opportunities within the AbilityOne Program and to recommend a process to define, measure, and track AbilityOne employment outcomes. The CNAs should identify certified Vocational Specialists to develop a program wide process for employees to reach vocational goals/career paths.

**Implementation Plan/Timeline:** 2021

**Subcommittee Four: Laws And Regulations**

Lead Organization: U.S. Department of Justice

**Recommendations**

7. Amend the Javits-Wagner-O’Day Act’s 75 percent Direct Labor Hour ratio requirement, 41 U.S.C. §§ 8501(6)(C), (7)(C), to provide for a range of direct labor hour percentages

to promote employment of individuals with disabilities in integrated work environments and provide for implementation requirements and guidelines.

8. Amend the Javits-Wagner-O'Day Act's definition of "Direct labor," 41 U.S.C. §§ 8501(3), to encourage upward mobility and hiring of people with disabilities in supervisory and other indirect labor positions.
9. Amend the Javits-Wagner-O'Day Act's definition of "severely disabled," 41 U.S.C. §§ 8501(5) and (8), to eliminate the presumption that eligible individuals are not competitively employable and to clarify and institute a workable definition.
10. Two of the original recommendations from Subcommittee Five (Veterans Eligibility), below, have been combined into the following updated recommendation, which will now be tracked by Subcommittee Four: Amend the Javits-Wagner-O'Day Act's definition of "severely disabled," 41 U.S.C. §§ 8501(5) and (8), to eliminate the presumption that eligible individuals are not competitively employable and to clarify and institute a workable definition.
  - Amend the definition of "severely disabled individual" and "normal competitive employment" to allow veterans in the Veterans Affairs (VA) Vocational Rehabilitation and Employment (VR&E), Compensated Work Therapy (CWT) and the Military Services Wounded, Ill, and Injured and other appropriate programs to participate in the AbilityOne Program.
  - Revise the definition of the severely disabled individual, so it does not state that participants are "unable to engage in competitive integrated employment" which may allow the VA (VRE/CWT) and State Vocational Rehabilitation Program to refer veterans to participating NPAs in the AbilityOne Program.

**Panel Recommendation 7:** Amend the Javits-Wagner-O'Day Act's 75 percent direct labor hour ratio requirement, 41 U.S.C. §§ 8501(6)(C), (7)(C), to provide for a range of direct labor hour percentages to promote employment of individuals with disabilities in integrated work environments, and provide for implementation requirements and guidelines.

**Current State:**

Subcommittee Four recommends that the JWOD Act be amended to provide for a range of acceptable direct labor hour percentages. The purpose of a range, rather than a single ratio, is twofold: (1) to increase employment opportunities for people with disabilities while also (2) ensuring that these jobs are integrated and competitive (as defined under the Americans with Disabilities Act and the Rehabilitation Act). The specific range continues to be discussed, and a final recommendation will follow.

Subcommittee Four is continuing to work on developing a recommendation that considers the range through data-driven analysis as follows:

1. Performing data analyses to determine goal percentages based on the dual purposes of increasing employment opportunities and ensuring that employment settings are integrated;
2. The AbilityOne Commission and SourceAmerica, in conjunction with Mathematica Policy Research, have developed a pilot project, initiated in 2019, to study the potential effects of reducing the 75 percent direct labor hour requirement;
3. SourceAmerica, in conjunction with Mathematica Policy Research, conducted a study in 2017 on the potential effects of reducing the 75 percent direct labor hour requirement; and
4. The Subcommittee collected data from a sample of NPAs, as well as from noted employers of people with significant disabilities in competitive integrated employment.

Subcommittee Four recommends that higher percentages within the range be incentivized during the recommendation and suitability determination processes, as long as the jobs/workplaces exhibit signs of integration. During the recommendation and suitability determination processes, and during regular regulatory compliance inspections and annual certifications, NPAs and/or CNAs would provide the following information to demonstrate competitive integrated employment:

1. Numbers of employees with and without disabilities in each job category;
2. Job description for each job category including description of interactions between employees on the job;
3. Description of the physical work environment and how it allows for interaction between colleagues with and without disabilities;
4. Description of opportunities for advancement for employees with disabilities (compared with employees without disabilities); and
5. Demonstration of competitive compensation in each job category.

Subcommittee Four notes that lower percentages within the range are acceptable and would encourage NPAs in new areas of business to hire people with disabilities to participate in the program.

Subcommittee Four recommends that the range be implemented using a phase-in approach and are working to develop a recommendation specifying a period for the phase-in. It is doing so by gathering data and information to determine the type and extent of transformation required as a result of the recommendation.

References: Americans with Disabilities Act and the Rehabilitation Act (definitions of integration and competitive, integrated employment under federal law)

1. Integration under federal law:
  - a. “[E]nables individuals with disabilities to interact with nondisabled persons to the fullest extent possible[.]” 28 C.F.R. pt. 35, app. B, at 685 (2010); *see* 42 U.S.C. § 12132; 28 C.F.R. § 35.130(d); 41 C.F.R. § 51-10.130(d).

b. “[E]mployee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons.” 29 U.S.C. § 705(5)(B).

i. Must include interaction with colleagues and other persons without disabilities (not including supervisory personnel). *See* 34 C.F.R. § 361.5(c)(9)(ii)(B).

c. Segregation within the workplace, and other forms of discrimination on the basis of disability, are prohibited. 42 U.S.C. §§ 12132, 12182(b)(1)(B); 28 C.F.R. §§ 35.130(d), 36.203(a); 41 C.F.R. § 51-10.130(d).

2. Competitive employment under federal law:

a. Offers competitive wages, *i.e.*, not less than that paid for the same or similar work outside the AbilityOne Program. *See* 29 U.S.C. § 705(5)(A).

b. Offers opportunities for advancement similar to those for employees who do not have disabilities and who have similar positions. *See* 29 U.S.C. § 705(5)(C).

**Courses of Action:**

1. Continue data-driven analyses to develop a recommendation that specifies the upper and lower bounds of the range of acceptable direct labor hour percentages.
2. Continue to develop a recommendation specifying an appropriate period for a phase-in of the recommended direct labor hour percentage range.
3. Change applicable policies to implement the recommendation incentivizing higher percentages within the recommended range, while ensuring competitive, integrated workplaces.

**Implementation Plan/Timeline: 2020**

**Panel Recommendation 8:** Amend the Javits-Wagner-O’Day Act’s definition of “direct labor,” 41 U.S.C. §§ 8501(3), to encourage upward mobility and hiring of people with disabilities in supervisory and other indirect labor positions.

**Current State:**

Subcommittee Four continues to recommend amending the JWOD Act’s definition of “direct labor” to encourage upward mobility within NPAs for employees with disabilities. In the Panel’s First Report to Congress, the Subcommittee recommended that the definition of direct labor include supervision, administration, and inspection. Subcommittee Four is continuing to work on this recommendation, to limit cases where inclusion of all indirect labor hours

performed at the NPA would neither incentivize promotions of employees with disabilities from direct labor positions nor assist in efforts to create an integrated workforce.

**Courses of Action:**

Subcommittee Four will continue to finalize the recommendation and proposed statutory language with input from stakeholders.

**Implementation Plan/Timeline: 2020**

**Panel Recommendation 9:** Amend the Javits-Wagner-O’Day Act’s definition of “severely disabled,” 41 U.S.C. §§ 8501(5) and (8), to eliminate the presumption that eligible individuals are not competitively employable and to clarify and institute a workable definition.

**Current State:**

Subcommittee Four continues to recommend that the definition in 41 U.S.C. §§ 8501(5) and (8) be amended as set forth in the Panel’s First Report to Congress, with slight changes for clarification (additions underlined):

The term “other disabled” means an individual with a disability –

- (i) who has a severe physical or mental impairment, which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
- (ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services (as defined in 29 U.S.C. § 723) over an extended period of time; and
- (iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, muscular-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia or other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs (as described in 29 U.S.C. § 705(2)(A)-(B)) to cause comparable substantial functional limitation.

**Courses of Action:**

Subcommittee Four will develop the legislative package.

**Implementation Plan/Timeline: 2020**

**Panel Recommendation 10:** Amend the Javits-Wagner-O'Day Act's definition of "severely disabled," 41 U.S.C. §§ 8501(5) and (8), to eliminate the presumption that eligible individuals are not competitively employable and to clarify and institute a workable definition.

**Current State:**

Subcommittee Four is implementing this recommendation in conjunction with Panel Recommendation 9.

**Implementation Plan/Timeline:** 2020

**Subcommittee Five: Veterans Eligibility**

Lead Organization: U.S. AbilityOne Commission

**Recommendations**

11. Work with the Department of Veteran Affairs and the Department of Education on feasibility, impact, and implementation of recommendations that rely on their determination of veteran and non-veteran eligibility for the AbilityOne Program.
  
12. The following two original recommendations from Subcommittee Three (Employment Initiatives) are similar to a recommendation from Subcommittee Five and have been combined into the following updated recommendation, which will now be tracked by Subcommittee Five: Develop a certification/validation program for individuals certifying the IEE form and consider acceptance of VA or State IEE submissions, or contracting for eligibility assessment of individuals whose IEE is not provided by the VA or a State Vocational Rehabilitation Agency.
  - Develop training, and certification/validation programs for the AbilityOne Individual Eligibility Evaluation (IEE).
  - Consider Acceptance of outside (Veterans Affairs/State/Contracted) IEE submissions, as feasible.
  
13. The following four original recommendations from Subcommittee Three (Employment Initiatives) are related and are similar to a recommendation from Subcommittee Five. They were combined into the following updated recommendation, which will now be tracked by Subcommittee Five: Develop a goal for Veterans to be integrated into the workforce under internships, part-time, or full-time employment opportunities and scale NPA employment based on goals/objectives/outcomes.
  - Clarify AbilityOne Program participant career goals leading to a career path.

- Establish an AbilityOne Commission eligibility and employment ‘cell’ of qualified personnel who are occupational therapists, Vocational Rehabilitation Counselors (VRCs), Licensed Clinical Social Workers, and other similar qualifications.
- Use AbilityOne Program participant ‘mapping’ against established disability employment programs (e.g., Vocational Rehabilitation and Employment Services/Compensated Work Therapy/Wounded Warrior programs, etc.) to enable NPA hiring for AbilityOne.
- Further define, measure, and track AbilityOne Program employment outcomes.

**Panel Recommendation 11:** Work with the Department of Veterans Affairs and the Department of Education on feasibility, impact, and implementation of recommendations that rely on their determination of veteran and non-veteran eligibility for the AbilityOne Program.

**Current State:**

By design, the AbilityOne Program was established as a program to enhance the lives of individuals with disabilities through employment. There is a robust process in place, consisting of four major components, to qualify an individual for the Program. This process sets the AbilityOne Program apart from other Federal entities that require minimal proof of disability. The first component is the “Letter to Self-Identify,” which is a common requirement that allows the individual to self-identify as qualified for the AbilityOne Program. The second aspect is meeting the definition of disability along with the requirement of receiving multiple vocational rehabilitation services over an extended period. This is a critical component in the process because Subcommittee Four (Laws and Regulations) is recommending a new definition for “other disabled.” This will change the requirements within the AbilityOne Program and support Federal programs referring eligible veterans to the AbilityOne Program. Third, is the extent of the individual’s diagnosis that clearly shows the impact to at least one of their daily life functions and functional limitations. Lastly, is to ensure documented proof from the NPAs identifying functional limitations and accommodations, related to the work being performed, is maintained in the employee records.



An AbilityOne employee at Skookum Contract Services works as a mechanic and performs preventative maintenance and repairs on military vehicles as part of a basewide vehicle maintenance service contract at Joint Base Lewis-McChord.

**Courses of Action:**

Subcommittee Five recommends establishing a pilot study to test if the new definition of “other disabled” recommended by Subcommittee Four (Laws and Regulations) will increase the number of veterans referred and employed within the AbilityOne Program. During the pilot,

AbilityOne Director of Veterans Employment and Initiatives should collaborate with Department of Veterans Affairs Vocational Rehabilitation and Employment (VR&E), Compensated Work Therapy (CWT), and other existing Services Wounded, Ill, and Injured programs to determine if additional clarification is needed to define eligibility criteria for veterans. To determine if an individual is a “Qualified Person with a Disability,” AbilityOne Program guidelines should be updated to ensure all employee files, to include veterans, will contain the following information: medical documentation, identifiable functional limitations and accommodations as it relates to the work performed, assessment of Vocational rehabilitation services, extent of Diagnosis and Functional Limitations, and documented proof of the individual’s eligibility for direct labor hours.

Medical documentation should be provided from a licensed medical professional, stating the person’s diagnosis and the extent of the individual’s medical condition with functional limitations. The medical documentation must meet the AbilityOne Program criteria of someone with a significant disability, as outlined in the new definition proposed by Subcommittee Four (Laws and Regulations). The diagnosis alone is not sufficient documentation, it must show that the extent of the individual’s condition is significant in nature affecting at least one of their daily life functions as identified in the new definition. The NPA must confirm that the extent of the individual’s medical condition is significant in nature by ascertaining the condition, at a minimum, affects the need for accommodations in the workplace. This also applies to documentation received from outside agencies, e.g. Veterans Affairs and State Vocational Rehabilitation agencies.

The individual must be one whose vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period. It is the NPA’s responsibility to ascertain if the supports are in place to meet this requirement and if additional supports are needed by working with the Vocational Rehabilitation entities and internal established resources.

**Implementation Plan/Timeline:** Establish and execute Pilot Test in 2020; Identify feasibility, impact, and implementation in 2021.

**Panel Recommendation 12:** Develop a certification/validation program for individuals certifying the IEE form and consider acceptance of VA or State IEE submissions, or contracting for eligibility assessment of individuals whose IEE is not provided by the VA or a State Vocational Rehabilitation Agency.

**Current State:**

Although, the AbilityOne Program does not have guidance that governs the IEE certification/validation process, some of the larger NPAs have a formal training, certification, and validation program for their employees who complete the IEE process while others do not. Most of the smaller NPAs do not have training personnel to establish a formal training, certification, and validation program, although they often complete informal training. There is a

need to establish a standardized process that lends itself to program wide compliance with oversight components.

Some NPAs currently outsource the IEE requirement, however, errors were discovered when the AbilityOne Compliance and Oversight Directorate compared in-house completion of IEE Form to outsourced ones. NPA staff members are required to complete the IEE Form with supporting documentation from a physician or federal/state certifier in accordance with regulatory compliance. There are risks with outsourcing the completion of the IEE Form as it is currently written. To mitigate risks, the Panel has concluded, moving forward, the Form should be completed by an individual within the NDA. According to SourceAmerica's Employee Research System (ERS) report for Q1, FY2019, there are several observations about the cost and time associated with a third party completing the IEE Form for new employees of the AbilityOne Program.

The ERS report shows that 56 percent of the total number of employees in the program are referrals from non-governmental sources. From a total workforce number of 32,000 people with disabilities employed in the program, this equates to 17,942 employees from non-governmental sources. Provided there are no additional projects added for the next year, but the average annual turnover rate of 20 percent for current AbilityOne projects is maintained, there will be 3,584 new employees referred from non-governmental sources who will need to have an IEE conducted by a third party. At a projected cost of \$200/IEE (3,584 new employees), it will cost a total of \$716,800 for the year. In addition to cost, other factors include: time and personnel resources to complete the IEE process, lack of first-hand knowledge of the actual job requirements by outside evaluators, and the consideration of failed background checks.

Subcommittee Five has identified the need to revisit the form in its entirety to include changing the definition and terminology, identifying a suitable name for the form, and establishing a form that is more meaningful. The form should be revised to reflect the modernized definition and terminology proposed by Subcommittee Four (Laws and Regulations), and a suitable name for the form shall be established. The form, in its entirety, should go through the OPM forms process for case managers.

**Courses of Action:**

As a Federal entity, the U.S. AbilityOne Commission should create a new form that is federally approved and complies with the OPM Forms Management Program process. This will promote economies of efficiency by implementing cost-effective policies and procedures for designing, creating, printing, electronically generating, stocking, distributing, using, and managing forms. As a universal form, AbilityOne, or other Federal agencies approved to complete the form, will have the capability to provide individuals or entities the option to submit or transact information electronically with the agency and to maintain records electronically.

The Panel will establish a working group to create a new form that is more meaningful and multifunctional to include a section that identifies upward mobility. The standardized certification process will lend an additional level of compliance and oversight, with the new

certification process aligning with the new form requirements. The working group will also clarify outside Federal agencies that can refer individuals to the AbilityOne Program and document NPA relationship with State Veterans Representatives, Department of Education, and Department of Labor.

Subcommittee Five recommends updating 41 C.F.R. 51-4.3(c)(2) to include: “These reports shall be signed by a person or persons qualified by training and experience to evaluate the work potential, interests, aptitudes, and abilities of persons with disabilities and shall normally consist of pre-admission evaluations and re-evaluations prepared at least annually. The certifier must understand how to differentiate between suitability for a position and eligibility based on disability.” For implementation, Subcommittee Five recommends that the AbilityOne Commission collaborate with colleges/universities and other organizations providing Workplace Inclusion and Sustainable Employment certifications. Training and certification in “Workplace Inclusion and Sustainable Employment” equip the staff with the knowledge and the skill set to ensure the success of an individual with a disability in the workplace. If a partnership with colleges and universities is established, the certified program could exist within various universities to continuously train, educate, and provide technical assistance in areas that affect the employment and inclusion of individuals with disabilities. Implementing this process keeps vocational rehabilitation practitioners and managers abreast of the latest trends, best practices, and research.

The CNAs should develop a certificate based training course for persons within NPAs completing the IEE process and require continuous learning on a two-year cycle.

#### **Implementation Plan/Timeline: 2021**

**Recommendation 13:** Develop a goal for Veterans to be integrated into the workforce under internships, part-time, or full-time employment opportunities and scale NPA employment based on goals/objectives/outcomes.

#### **Current State:**

The AbilityOne Program established the Directorate of Veteran Employment and Initiatives (DVEI) to ensure methodologies are in place to integrate veterans into the workforce, but does not have an explicit goal set at this time. There is a lack of information on career opportunities for veterans with disabilities on the AbilityOne website, therefore, AbilityOne needs to focus on outreach to veterans working with the VA and other veteran support organizations. The CNAs and NPA currently develop goals, objectives, and outcomes for their employees through internship and mentor protégé programs, but the AbilityOne Commission does not scale NPA employment based on goals, objectives, and outcomes, nor do they use the information to develop and refine procurement and employment targets leading to a career path.

**Courses of Action:**

CNAs should identify NPAs with internship, apprenticeship, and fellowship programs to collaborate with colleges and other agencies outside the AbilityOne Program (Vocational Rehabilitation Services, Compensated Work Therapy, and Wounded Warrior Programs) to create a pipeline of qualified employees for future AbilityOne opportunities. They should establish a memorandum of agreement (MOA) or memorandum of understanding (MOU) with these agencies to ensure roles and responsibilities are identified and a repeatable process is established. The AbilityOne Commission should use these partnerships to market the AbilityOne Program. The AbilityOne Commission is working with the Department of Labor to create an apprenticeship program for veterans and persons with disabilities. This program is a proven strategy for developing a talent pipeline of qualified veteran workers and persons with disabilities. The apprenticeship is not only an important development tool for AbilityOne programs, but can also lead in convening a range of public and private partners in a State or region to develop and launch apprenticeship strategies. The apprenticeship pilot with the CNAs and NPAs will test the feasibility of a program-wide apprenticeship.

Subcommittee Five will work with the AbilityOne Commission to bring all stakeholders to the table to discuss a national partnership. Subcommittee Five members are working with their local groups and reporting progress to the team leads. Subcommittee Five will collaborate with Subcommittee Four (Laws and Regulations) to expound the definition, and collaborate with the Department of VR&E, CWT, and the Services Wounded, Ill, and Injured programs to participate in the AbilityOne Direct Labor Ratio pilot. Subcommittee Five will work with the AbilityOne Commission to create a marketing strategy to share information about the AbilityOne Program via the VR&E program and at training and conference venues, along with other Federal Agency venues that target employment opportunities for veterans and other individuals with disabilities. The AbilityOne Program should partner with the VA's Office of Transition and Economic Development (TED), DOL and DoD to participate in Transition Assistance Program (TAP) briefings and other events. The AbilityOne Commission should develop a MOU with other Federal Agencies on employment initiatives and look for opportunities to increase utilization of the AbilityOne Program, e.g. Non-Paid Work Experience, On-the-Job Training, etc., which will increase the number of veterans in the program.

Subcommittee Five also recommends the AbilityOne Commission update the AbilityOne Program website to focus on career opportunities for veterans with disabilities.

**Implementation Plan/Timeline:** 2021

**Subcommittee Six: Acquisition and Procurement**

Lead Organization: Air Force, Department of Defense

**Recommendations**

14. Develop policy and implement business practices that provide sufficient oversight and transparency. Create incentives for inclusion and mentoring of smaller nonprofits and veteran employment opportunities on DoD contracts.

15. The following two original recommendations are similar and related and have been combined into the following updated recommendation: Develop policy establishing NPA recommendation/allocation procedures.

- Designation and allocation of work: Develop policy establishing mandatory source selection procedures for CNAs to follow that requires a best value trade-off similar to other Federal source selection procedures.
- The following original recommendation from Subcommittee Two (Eliminate Waste, Fraud, and Abuse) has been realigned and will now be tracked under Subcommittee Six: Increase transparency in CNAs' nonprofit agency recommendation processes with mandatory criteria and certifications.

16. The following two original recommendations are related and have been combined into a new updated recommendation: Establish business rules for competition and assignment of work among AbilityOne Program NPAs.

- Establish policy and business rules for competition and re-competition within the AbilityOne Program.
- Establish AbilityOne policy that outlines situations for re-competing/reassigning work among NPAs.

17. Establish penalties if a CNA or NPA does not follow policies and procedures.

18. Reduce the existing gaps and deficiencies in CNAs' processes.

19. Change 41 C.F.R. 51 to include information regarding undesignation of CNAs and deauthorization of NPAs as the authorized source on the Procurement List.

The recommendations under the Subcommittee Six area of responsibility are in various stages of implementation, as discussed below.

**Panel Recommendation 14:** Develop policy and implement business practices that provide sufficient oversight and transparency. Create incentives for inclusion and mentoring of smaller nonprofits and veteran employment opportunities on DoD contracts.

**Current State:**

The Cooperative Agreements between the AbilityOne Commission and the CNAs incorporated mechanisms to increase transparency in CNA business practices and established a Program Management Office, in 2016, to ensure oversight of the Cooperative Agreements. The Commission does not have any policy creating incentives for inclusion and mentoring of smaller nonprofits and veteran employment opportunities on DoD contracts.

**Courses of Action:**

The mechanisms within the existing Cooperative Agreements and the implementation of Panel Recommendation 15 will increase the Commission's transparency and oversight in the CNA's processes, which will satisfy the first half of Recommendation 14. To fulfill the second half of Recommendation 14, the Commission promotes Mentor Protégé programs within the CNAs in order to further develop smaller nonprofits, but there are not clearly established incentives for larger nonprofits to participate in these programs. The Commission must consider creating incentives and communicating with nonprofits to increase participation. Subcommittee Six is still working with the Commission to create incentives for inclusion and mentoring of smaller nonprofits and veteran employment opportunities on DoD contracts, which will be impacted by outcomes of Panel Recommendations 15 and 16.

**Implementation Plan/Timeline:** This recommendation is partially complete because the first half of the recommendation is satisfied to date but will be impacted by Recommendations 15 implementation timelines. The second half of the recommendation is set to be completed in 2020.

**Panel Recommendation 15:** Develop policy establishing NPA recommendation/allocation procedures.

**Current State:**

This recommendation requires Subcommittee Six to consider:

- Assessing the AbilityOne Program's existing policy on mandatory source recommendation/allocation procedures;
- Requiring J&A type documentation if only one or limited NPAs can support;
- Submitting Source Recommendation/Allocation Decision Document as part of the Decision Document the Commission votes on to designate work to the Procurement List;
- Establishing a dollar threshold for representations and certification requirements on contracts; and
- Piloting different approaches to make a sound decision on the appropriate way forward. Specifically, implementing pilots that include DoD and Commission led evaluations and recommendations. These pilots should include government only and joint government-CNA participation. The objective is to improve Commission oversight prior to the evaluation, when recommendations are made to the Commission.

The Cooperative Agreements do not include reference to any Source Recommendation/ Allocation Procedures to measure CNA compliance with fair and equitable recommendations. The Cooperative Agreements currently state the following, “In accordance with Commission policies, the CNA shall conduct fair, transparent and equitable Allocation or Recommendations (A&R) of products and services on the Procurement List (PL) to qualified NPAs with impartiality (excluding evaluation factors, such as past performance) and without improper preferential treatment. In making both allocation and recommendation decisions, the CNA shall follow Commission policies.” The policy referenced in the Cooperative Agreements is Commission Policy 51.301, Selection of NPA.

Commission Policy 51.301 states:

“In accordance with Commission policies, the CNA shall conduct fair, transparent and equitable allocation or recommendations of products and services on the PL to qualified NPAs with impartiality (excluding evaluation factors, such as past performance) and without improper preferential treatment. In making both allocation and recommendation decisions, the CNA shall follow Commission policies.”

SourceAmerica - In accordance with Section 5.4 of SourceAmerica’s NPA Recommendation Process and Procedures, SourceAmerica uses a three-phased process to evaluate NPAs. Part 1 is a Technical Evaluation, Part 2 is a Past Performance Evaluation, and Part 3 is an Evaluation Panel Review.

The existing SourceAmerica Cooperative Agreement 3.2.5 (Equitable Allocation and Recommendation process) QASP measure states: *The CNA's allocation and recommendation processes shall result in no more than 1 allocation and recommendation, overturned by the Commission.* No overturned recommendations suggest policies and procedures are being followed.

Subcommittee Six reviewed the existing SourceAmerica announcement process, similar to FedBizOpps, and determined the SourceAmerica Opportunity Notice should include the non-price evaluation factors identified. SourceAmerica refers to sole source as a Designated Source (DS), this is used when designating an opportunity to a specific NPA based on one or more of the following three justifications:

- A new opportunity;
- Transfer of an existing PL project to another qualified NPA; or
- Additional producer(s) for a project on the PL

The SourceAmerica Recommendation Authority will prepare a summary document indicating his/her basis for directing the DS in accordance with one or more of the justifications.

NIB – In accordance with Section 6.1.4 of NIB’s Assignment Policy, assignment requests for product and service opportunities are identified by the NPA or by internal NIB staff members (including opportunities recommended by government agencies). All assignments originate by

the submission of a completed Request For Assignment (RFA) form. The RFA will be completed by the NPA or NIB personnel and submitted to the Line of Business (LOB) specific central mailbox indicated on the RFA form. NPA and NIB submitted assignments are evaluated using quantitative and qualitative considerations including, but not limited to: NPA Good standing, Conflict (with another NIB Agency participating in the AbilityOne Program), Agency need, Assessment of Blind Employment, Manufacturing and Other Capacity Management, Past Performance, Technical Qualifications, Management, Key Personnel, Time to Market, and Geographical Location.

The existing NIB Cooperative Agreement 3.2.5 (Equitable Allocation and Recommendation Process (A&R)) QASP measure states: *[The CNA] submits A&R policy and procedures to Commission and the Commission approves (IAW PWS). A&R Performance Report submitted on time with 0 requests for rework AND provides at least 3 examples of equitable allocations, expansions of NPA opportunities in a different Line of Business (LOB), and/or an increase in recommendations resulting in PL additions.*

NIB only issues an announcement for NIB identified opportunities, not NPA identified assignments. A NPA identified assignment is an opportunity identified by NPA based on relationships with customers and the NPA's capability to provide a product or service. NPA identified assignments are evaluated on a first come first serve basis by NIB and are not announced to the NIB network of NPAs.

NIB identified opportunities for products or services originate with NIB, and NIB selects the NPA for assignment of the opportunity. NIB will evaluate the opportunity to determine if it is a line extension or replacement opportunity for a product/service already on the PL. Line extensions and replacements will be offered to the incumbent NPA with the opportunity on the PL. If the opportunity is not determined to be a replacement or line extension, then NIB will incorporate a request for information/request for proposal process, and all NIB associated NPAs will have an opportunity to respond.

Subcommittee Six has reviewed the NIB process and recommends NIB to consider announcing all opportunities, not just NIB identified opportunities, unless justified and approved by the AbilityOne Commission. NIB's sole source process occurs with NPA and NIB identified opportunities that are line extensions and/or replacements, as discussed in the previous paragraph. The NIB Vice President of Operations will approve restricted assignment opportunities and document the rationale in the recommendation documents submitted to the Commission for approval.

The Commission does not have a policy that mandates the format and/or content of the Recommendation Authority Decision Document (DD). A DD is required to be submitted to the Commission for vote to determine if additional work should be added to the PL. The current format of the decision document only discusses the recommended NPA and does not provide details on the NPA recommendation process taken to determine the recommended NPA for the work. Currently, no additional documentation is attached discussing in greater detail how the CNA reached their best value recommendation. The Commission should update current DD requirements to include additional details on the process used by the CNAs to make the

recommendation. The Recommendation Authority should incorporate and attach information on non-recommended NPAs to the DD submitted to the Commission.

The Commission does not have any policy establishing mandatory source recommendation/ allocation procedures or establishing a dollar threshold for representations (reps) and certifications (certs) on contracts. Reps and Certs are submitted by the NPAs on an annual basis, at the end of the FY. Per C.F.R. 51-4.3, NPAs must submit to its central nonprofit agency, by November 1 of each year, two completed copies of the appropriate Annual Certification (Committee Form 403 or 404) covering the FY ending the preceding September 30. The Commission does not have a Reps and Cert Policy but the Cooperative Agreements require the CNAs to submit Annual Reps and Certs for all NPAs to the Commission no later than December 1 of each year. Subcommittee Six has determined the status quo is sufficient for Annual Reps and Certs.

### **Courses of Action:**

The Commission is currently working a pilot test with the Army and Source America to support a Total Facilities Management (TFM) requirement at Fort Bliss. The pilot test will determine potential source recommendation procedures that can be used throughout the AbilityOne Program. The ongoing pilot is expected to be completed in December 2019. AbilityOne will establish a mandatory NPA recommendation guide that current and future CNAs will be required to comply with, based on outcomes of the pilot test, and develop policy to support required use of the guide.

The AbilityOne mandatory NPA Recommendation guide will:

- Address mandatory NPA recommendation evaluation factors (price, percent of disabled direct labor hours, percent of veteran direct labor hours, size of NPA, past performance, corporate experience, resumes, etc.);
- Address best value trade off analysis procedures and required documentation for supporting recommended NPA;
- Address J&A type template/guide for CNAs to utilize when applicable and requirement to notify the Commission of CNAs' intent to sole source after market research is conducted;
- Address the documentation required to be submitted in package for Commission vote to ensure Recommendation Authority DD submitted by CNAs is attached to recommendation to Commission;
- Address which CNA will collect a Program Fee and criteria for determination;
- Address situations where NPAs can decide which CNA they want to work with (NIB, SourceAmerica, American Foundation for the Blind);
- Consider impact of Competitive Integrated Employment (CIE); and

- Consider Quality Work Environment (QWE) in source recommendation/allocation.

The Commission will also incorporate compliance with AbilityOne mandatory NPA Recommendation guide requirements into the Cooperative Agreements.

After the guide and associated policy are developed, the Commission shall establish a Cooperative Agreement metric that measures compliance with the mandatory NPA Recommendation guide that impacts the CNA's ceiling fee determination.

The outcome of the pilot test may require more involvement from the Government agencies.

**Implementation Plan/Timeline:** 24 months after the submission of the Section 898 Panel 2nd Report to Congress (December 2021)

- 12 month timeline (after pilot contract is awarded) for AbilityOne Commission to evaluate best practices and lessons learned from the Commission/Army Pilot (December 2020).
- 6 month timeline (after initial 12 month period) to establish CNA NPA Recommendation guide mandating use of best value procedures and develop policy to support required use of the guide (June 2021).
- 6 month timeline (after policy completion) to develop the Cooperative Agreement requirement and QASP element.

**Panel Recommendation 16:** Establish business rules for competition and assignment of work among AbilityOne Program NPAs.

**Current State:**

This recommendation requires Subcommittee Six to consider the following factors:

- Allow for continued performance for NPAs that perform well, use award term type process to continue performance;
- Transfer or re-compete work for marginal or poor performance, require Commission approval; and
- Protect direct labor employees who are blind or who have severe disabilities during transfer/re-compete process. Establish a policy that provides “Right of First Refusal” to the existing workforce when an incumbent NPA is replaced through competition or otherwise.

The Commission does not have any business rules for competition and re-competition but they are in the process of revising the C.F.R. to acknowledge Commission authority to reallocate work. The C.F.R. gives the Commission authority to designate CNAs and the CNAs’ authority

to authorize and de-authorize NPAs for performance, but the C.F.R. revisions are necessary to further clarify the Commission's authority to remove underperforming NPAs.

In accordance with Commission Policy 51.301 Section 5(f), [The Commission] retains the authority, on an exception basis, to direct CNAs to reassign or reallocate work using CNA-established procedures when it is in the best interest of the Government. This responsibility can be exercised to meet critical product or service delivery requirements and/or to further the AbilityOne Program mission to enhance employment opportunities or other significant programmatic matters.

In accordance with Section 6.1.4.9.1 of NIB's Assignment policy, when NIB assigns a project that will involve more than one NIB-associated NPA, agencies will be identified based on the assignment recommendation/allocation criteria identified in Section 6.1.4.2.2.6, Qualifications. Agencies are identified/communicated within the assignment letter if they are a primary, secondary, or back up agency and based on the condition constituting the assignment disposition.

The Contracting Officer has the same authority they have in any other contract (based on FAR) to document poor performance and issue a cure notice or terminate contracts. If a Contracting Officer determines to replace an incumbent, the CNA must comply with AbilityOne Policy 51.301 in order to recommend new NPA.

When work is reallocated within the AbilityOne Program, the protection of jobs for incumbent employees with disabilities need to be protected. The Commission does not have any business rules in place that protects disabled employees when work is reallocated.

**Courses of Action:**

AbilityOne should issue a revision to 41 C.F.R. 51, to include §51-4.6, to clarify the Commission's authority to transfer work within the AbilityOne Program. Increasing competition within the AbilityOne Program will promote employment growth among people who are blind, disabled, and veterans; and will have a positive impact on pricing for Federal customers. The Commission should consider incorporating 41 C.F.R. 51-4.6 to state, "The Commission shall establish a maximum performance period before consideration of re-competing AbilityOne contracts in order to make best interest determination (i.e. 10 years) to retain incumbent or identify a new NPA."

The update to 41 C.F.R. 51-4.6 should include, Authorization, which would read as follows:

“§51-4.6, Authorization

If the Commission removes the authorization of an NPA as the provider of a product or service on the PL, the de-authorized NPA shall allow as many personnel as practicable to remain on the job with the authorized successor NPA to ensure continuity of services required by contract with the Federal customer. The successor NPA is required to offer a right of first refusal of employment, under the successor contract, to employees under the predecessor contract in positions for which they are qualified. The de-authorized NPA shall disclose necessary personnel records and allow the successor NPA to conduct on-site interviews with those

identified employees. If selected employees are agreeable to the change, the de-authorized NPA shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits and any other relevant employment information to the successor NPA.”

**Implementation Plan/Timeline:** Revise 41 C.F.R. 51-4.6, to incorporate section titled “Authorization,” and establish maximum performance periods in January 2020; AbilityOne establish policy and business rules 12 months after 41 C.F.R. revisions are submitted for approval (January 2021).

**Panel Recommendation 17:** Establish penalties if a CNA or NPA does not follow policies and procedures.

**Current State:**

Commission Policy 51.301 states:

“In accordance with Commission policies, the CNA shall conduct fair, transparent and equitable allocation or recommendations of products and services on the PL to qualified NPAs with impartiality (excluding evaluation factors, such as past performance) and without improper preferential treatment. In making both allocation and recommendation decisions, the CNA shall follow Commission policies.”

The Commission has incorporated penalties for CNAs not following policies and procedures within the Cooperative Agreements established with the CNAs. The Quality Assurance Surveillance Plan (QASP), incorporated within the Cooperative Agreements, outlines key performance indicators and metrics that must be met. CNAs that do not comply will potentially have a reduction in their Program Fee Ceiling, which will impact the amount of fee collected from contracts awarded throughout the year.

If NPAs do not comply with Direct Labor Hour ratio requirement, the Commission will place them on a Performance Improvement Plan (PIP) and allow them the opportunity to brief the Commission of their corrective action plan. If the NPA fails to comply with the corrective action plan, they can be removed from the AbilityOne Program.

CNA Corrective Actions/Penalties currently in place (Ref. SourceAmerica 4 Step Process)

- Consider probation and/or removal from AO Program for total direct labor hours below 75 percent;
- Consider different penalties between NPAs and CNAs; and
- Consider normal FAR penalties for default (ex: cure notice, show cause letter, termination, etc.).

The Commission’s mechanism for enforcing policies and procedures is the Cooperative Agreement and Quality Assurance Surveillance Plan (QASP). [4 KPIs: 1. Employment Growth,

2. AbilityOne Program Administration, Oversight, and Integrity, 3. NPA Support, Assistance, and Development, 4. Training and Strategic Communications.]

The Commission discusses Semi-Annual Performance Reviews with CNAs and the impact of performance on Program Fee determination.

There is currently no statutory or regulatory authority that authorizes the AbilityOne Commission to penalize the NPAs for non-compliance with policies and procedures.

**Courses of Action:**

The Commission is currently working a pilot test with the Army and SourceAmerica to support a Total Facilities Management (TFM) requirement at Fort Bliss in order to determine effects of unintended consequences, best practices, and lessons learned within the NPA Recommendation process. Based on the outcomes of the studies, the Commission will issue a NPA Recommendation Guide and incorporate penalties for not following guidelines in the existing Cooperative Agreements.

Establish DFARs language that mandates implementing the JWOD statute and corresponding C.F.R. language in DoD AbilityOne contracts (or incorporate by reference). Implement the mandatory NPA Recommendation Guide compliance in the Cooperative Agreement and develop a QASP element.

**Implementation Plan/Timeline:** This recommendation is partially complete because there are currently penalties in place, but additional penalties will be incorporated after the mandatory NPA Recommendation Guide is established. Twenty four months after the submission of the Section 898 Panel 2<sup>nd</sup> Report to Congress (June 2021).

- 12 month timeline (after pilot contract is awarded) for the AbilityOne Commission to evaluate best practices and lessons learned from the Commission/Army Pilot (December 2020).
- 6 month timeline (after initial 12 month period) to establish CNA NPA Recommendation guide and associated penalties (June 2021).
- 6 month timeline (after policy completion) to develop the Cooperative Agreement requirement and QASP element.

**Panel Recommendation 18:** Reduce the existing gaps and deficiencies in CNAs' processes.

**Current State:**

This recommendation requires Subcommittee Six to consider several factors to include:

- Requiring CNAs to write a detailed justification when deviating from the technical evaluation team's NPA recommendation;

- Ensuring CNAs require, in their policies and procedures, consistent use of the requiring activity's SMEs as a part of the technical evaluation team;
- Ensuring that the final documentation submitted to the Commission for NPA recommendation/allocation contain all technical, financial and cost/price evaluations, instead of only an abbreviated version of the Recommendation Authority's decision document;
- Ensuring, when competition is limited amongst NPAs, CNA policy and procedures contain an approval authority with a requirement to include the approved justification in the final recommendation package submitted to the Commission;
- Requiring detailed documentation for each phase of the Recommendation and Allocation Process to ensure transparency in the acquisition process; especially the step when the Finance subject matter experts (SMEs) conduct evaluations of the NPAs as this aspect is not documented at any level of detail and criteria specific to financials (not to be confused with cost/price evaluation);
- Ensuring CNAs remove all allowance of broad discretion and place parameters around external input during their source recommendation/allocation process;
- Ensuring CNAs require strict adherence to evaluation criteria without deviation to guarantee fair evaluations of NPAs. Further, technical criteria must be developed in collaboration with the requiring activity and must contain order of importance and/or weights of the criteria; and
- Ensuring both CNAs require formal training and develop a mandatory training program for all parties participating in their Recommendation and Allocation Process;
- Ensuring CNAs staff includes sufficiently trained personnel with expertise and competencies that align with lines of business for their source recommendation/allocation business process, which will help reduce the frequency of utilizing unqualified staff from other departments to conduct technical evaluation of NPAs.

The AbilityOne Commission does not have policy discussing justification of any deviations from technical team recommendations.

SourceAmerica - In accordance with Section 5.4.3 of SourceAmerica's NPA Recommendation Process and Procedures, in the event there are differing recommendations among evaluation panel members, the Facilitator (SourceAmerica employee designated as Chairperson) is responsible for leading an evaluation panel review meeting to ensure the evaluation summaries of competing NPAs contain sufficient narrative articulation of criteria met. Any strengths or weaknesses for the Recommendation Authority's review process shall also be assessed at this meeting. An evaluation panel review meeting may also serve to identify distinguishing

capability factors in highly competitive scenarios, where more than one NPA provides a strong response, meets all evaluation criteria, and is evaluated as qualified and capable. This process involves a facilitated evaluation panel discussion during which substantive capability factors consistent with the evaluation criteria are identified to distinguish individual NPAs. The evaluation panel thoughtfully considers, analyzes, and discusses all Opportunity Specific response sections in an effort to identify substantive factors that alone or collectively distinguish individual NPAs for Recommendation Authority consideration. Once the evaluation panel review is completed, the Facilitator is responsible for presenting the evaluation summary to the Recommendation Authority for review and consideration. The evaluation panel's documentation is confidential and internal to SourceAmerica and the U.S. AbilityOne Commission.

Per Section 5.5 of SourceAmerica's NPA Recommendation Process and Procedures, the Recommendation Authority's assessment will consist of reviewing the evaluation panel's summary documentation, and determining if any special considerations are warranted. The Recommendation Authority's assessment will result in a recommendation decision document summarizing his/her basis for the recommendation decision. The summary shall rationalize and substantiate the reasoning used by the Recommendation Authority to reach their decision, ensuring it is consistent with, and based solely on, the evaluation criteria stated in the Posting. Any special considerations, e.g. past performance verification, or consultation that is used in the recommendation decision must be articulated in the recommendation decision document. This documentation will be signed by the Recommendation Authority and may be included, as requested by the Commission, in the PL Addition/Transfer Package that is provided to the U.S. AbilityOne Commission for review and approval.

NIB - In accordance with Section 6.1.4.3 of NIB's Assignment Policy, when NIB receives an assignment request, it assesses all requests in a fair and consistent manner. When evaluating the assignment request, each of the criteria listed in 6.1.4.2.2 is considered (Good standing, conflict [with another NIB Agency participating in the AbilityOne Program], management, etc.). The attributes of the opportunity are evaluated in addition to the above criteria to make the assignment recommendation. Assignment evaluation results are documented on the Assignment Decision Document (ADD) in addition to the opportunity evaluation results for NIB-identified opportunities.

The Request for Information (RFI)/Request for Proposal (RFP) process will be used to evaluate and recommend NPAs based on an analysis of how well the individual NPA's proposal addressed the stated evaluation criteria. First, the proposals are rated and ranked by an independent, internal NIB Source Selection Board (SSB) led by the Line of Business Director/Manager; members of the Board may include SMEs, business development managers, engineers, and operations support assets. Using the criteria in 6.1.4.2.2, the Line of Business Director/Manager will assign weights or an order of importance to each factor. The weights/factors will change by opportunity so panels may use different criteria, and associated weights, as necessary.

Second, this panel will submit their proposed rankings and justification to the Senior Director/Products and Services to ensure the SSB followed the process of rating each NPA proposal

against the evaluation criteria in a fair and consistent manner. All decisions are documented on the ADD. The NIB Vice President of Operations will make the final assignment decision based on the SSB's input. After the assignment decision is reached, all respondents will be notified of the decision in writing; debriefs will be provided upon request. NIB will publicize the assignment in NIB This Week. The NPA receiving the assignment will receive an official assignment letter.

**Courses of Action:**

The Commission is currently working a pilot test with the Army and SourceAmerica to support a Total Facilities Management (TFM) requirement at Fort Bliss. The pilot test will determine potential source recommendation procedures that can be used throughout the AbilityOne Program. As a result of recommendation 15 above, the Commission will establish policy that addresses the mandatory NPA Recommendation Guide and will ensure appropriate documentation is included with the decision document submitted to the Commission for vote. Enforcement will take place within CNAs, but will be based on guidance from the Commission.

**Implementation Plan/Timeline:** 18 months after the submission of the Section 898 Panel 2nd Report to Congress (December 2021)

- 12 month timeline (after pilot contract is awarded) for AbilityOne Commission to evaluate best practices and lessons learned from the Commission/Army Pilot (December 2020).
- 6 month timeline (after initial 12 month period) to establish CNA NPA Recommendation Guide mandating use of best value procedures and develop policy to support required use of the guide (June 2021).

**Panel Recommendation 19:** Change 41 CFR 51 to include information regarding undesignation of CNAs and deauthorization of NPAs as the authorized source on the Procurement List.

**Current State:**

This recommendation requires Subcommittee Six to consider:

- Authorizing the Commission to undesignate/de-authorize CNAs and NPAs as the authorized source on the PL to accept contracts from contracting activities for the furnishing of specific products and services on the Procurement List;
- Incorporating an Alternative Dispute Resolution process in matters regarding contract disputes, allowing the contracting activity or the NPAs to request assistance from either the central nonprofit agency or the Commission;
- Requiring, in the event the Commission removes the designation of an NPA as the authorized source of supply for [a product or] services on the PL, the NPA shall allow as many personnel as practicable to remain on the job to help the designated

Successor NPA maintain the continuity and consistency of the services required by a contract;

- Ensuring the Successor NPA is required to offer employees under the predecessor contract, whose employment will be terminated as a result of the designation of a Successor NPA, the right of first refusal of employment under the Successor contract in positions for which they are qualified;
- Ensuring the previously designated NPA discloses necessary personnel records and allows the Successor NPA to conduct on-site interviews with those identified employees, who are potentially qualified for positions under the successor contract;
- Ensuring, if selected employees are agreeable to the change, the previously designated NPA releases them at a mutually agreeable date and negotiates transfer of their earned fringe benefits and any other relevant employment information to the Successor nonprofit agency.

The current regulation regarding the mandatory source requirement is broad and includes the Commission's authority to designate authorized sources, but it does not address un-designation/de-authorization. The current language reads as follows:

#### **§51-5.2 Mandatory Source Requirement.**

**(a)** Nonprofit agencies designated by the Committee are mandatory sources of supply for all entities of the Government for commodities and services included on the Procurement List, as provided in § 51-1.2 of this chapter.

**(b)** Purchases of commodities on the Procurement List by entities of the Government shall be made from sources authorized by the Committee. These sources may include nonprofit agencies, central nonprofit agencies, Government central supply agencies such as the Defense Logistics Agency and the General Services Administration, and certain commercial distributors. Identification of the authorized sources for a particular commodity may be obtained from the central nonprofit agencies at the addresses noted in § 51-6.2 of this chapter.

**(c)** Contracting activities shall require other persons providing commodities which are on the Procurement List to entities of the Government by contract to order these commodities from the sources authorized by the Committee. [56 FR 48981, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991, as amended at 59 FR 59343, Nov 16, 1994; 60 FR 54200, Oct. 20, 1995; 63 FR 16439, Apr. 3, 1998]

The language in 41 C.F.R. 51 regarding disputes is broad, but includes involving the CNA and/or Commission when a dispute cannot be resolved. Any pricing issues should follow the policy on Pricing Impasses, Commission Policy 51.640, which requires a pricing dispute to be brought to

the Commission because the Commission, by statute (C.F.R. §51-5.5), has the exclusive authority to set the fair market price (FMP).

The current language reads as follows:

**§51-6.15 Disputes.**

Disputes between a nonprofit agency and a contracting activity arising out of matters covered by parts 51-5 and 51-6 of this chapter shall be resolved, where possible, by the contracting activity and the nonprofit agency, with assistance from the appropriate central nonprofit agency. Disputes which cannot be resolved by these parties shall be referred to the Committee for resolution.

**AbilityOne Policy 51.640 reads as follows:**

**Section 6, Policy.**

- (a) The Commission encourages partnering, team building and mutual gains approaches to problem-solving. Business relationships under the AbilityOne Program must be conducted with fairness, integrity, and openness.
- (b) When price issues cannot be resolved at the local level, the dispute resolution process described in Section 8 of this policy will be used.
- (c) (c) The Commission, after obtaining all appropriate information, will act to resolve price impasses in the most expeditious manner.

**Section 8, Procedures.**

Impasse Resolution Process.

(a) Informal Resolution: Disputes should be resolved locally whenever possible, within 30 days. The responsible CNA will be involved in resolution if local attempts to resolve the issue are unsuccessful. Early involvement of the CNA should facilitate a timely resolution. The CNAs are encouraged to issue procedures for resolving FMP issues that support this policy.

(b) Declaration of Impasse: The Impasse Resolution process is initiated by a Declaration of Impasse, which must be in writing to the Executive Director of the Commission; electronic mail is required and should be sent to [PLRequest@AbilityOne.gov](mailto:PLRequest@AbilityOne.gov), with simultaneous copies to the other party and the responsible CNA, only if the following apply:

i. The Declaration, if originating with Contracting Activity, is made by an official at an organizational level above the Contracting Officer.

ii. The Declaration, if from the NPA, is made by the Chief Executive Officer of the NPA, or, if designated by the NPA to represent it in the impasse process: a. NIB Assistant Vice President, Operations Support, b. SourceAmerica Regional Executive Director, or c. Official at an organizational level above these positions.

[62 FR 66529, Dec. 19, 1997. Redesignated at 63 FR 16439, Apr. 3, 1998.]

The protection of disabled employees if an NPA loses its designation is currently not addressed as a policy or regulation within the AbilityOne Program even though there has been a Commission practice to allow employees working for one NPA to transfer to another NPA when a particular contract is transferred. Although the Commission could implement an internal policy regarding a Right of First refusal, it would not have a legally binding effect on other Federal agencies. It also might allow NPAs to challenge whether it is legally binding or whether the Commission has the authority to allow employees to transfer from one NPA to another when it transfers a contract from one NPA to another NPA.

This recommendation should be addressed by regulation to have the full force and effect of law. Once promulgated as a Commission regulation, it could also then be inserted into the Commission's FAR Part 8.7 as a FAR provision and a FAR clause in FAR subpart 52 to be inserted in contracts awarded under the AbilityOne authority.

**Courses of Action:**

Update 41 C.F.R. 51 to include **§51-3.8, Designation**, and **§51-4.6, Authorization**, which would read as follows:

**“§51-3.8, Designation.**

Agencies seeking to be designated as a CNA shall submit to the Commission a designation package to include, at a minimum, the following:

- (a) Financial statements showing all sources of income;
- (b) Demonstration of ethics program and disclosure of any conflicts of interest; and
- (c) Evidence of meeting all proposed CNA qualifications as outlined in 41 C.F.R. 51.

To be designated a CNA, the nonprofit agency shall enter into a written agreement with the Commission.

The Commission reserves the right to update designation requirements as appropriate.”

**“§51-4.6, Authorization**

If the Commission removes the authorization of an NPA as the provider of a product or service on the Procurement List, the de-authorized NPA shall allow as many personnel as practicable to remain on the job with the new authorized successor NPA in order to ensure continuity of services required by contract with the federal customer. The successor NPA is required to offer a right of first refusal of employment under the successor contract to employees under the predecessor contract in positions for which they are qualified. The de-authorized NPA shall disclose necessary personnel records and allow the successor NPA to conduct on-site interviews with those identified employees. If selected employees are agreeable to the change, the de-authorized NPA shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits and any other relevant employment information to the successor NPA.”

Revise 41 C.F.R. 51-5.2(b) to read as follows:

## **“§51-5.2 Designated/Authorized source requirement**

(b) As a separate process, the Commission shall designate individual or multiple nonprofit agencies as the authorized source of supply for products or services (to include services in a similar manner) on the Procurement List. Products and Services may be purchased from nonprofit agencies; central nonprofit agencies; Government central supply agencies, e.g. Defense Logistics Agency and General Services Administration; and certain commercial distributors. Identification of the authorized sources for a particular product may be obtained from the central nonprofit agencies.”

Revise 41 C.F.R. 51-6.15 to include an arbitration provision. FAR 33.214 sets forth parameters for agencies to use Alternative Dispute Resolution (ADR) mechanisms. Requirement should include: 1) using ADR mechanisms any time the contracting officer has authority to resolve a dispute; 2) allowing neutral persons to facilitate ADR; 3) applying confidentiality protections of 5 USC 574; 4) prohibiting solicitations from requiring arbitration as a condition of award; 5) enforcing a written agreement to arbitrate; 6) binding arbitration as an ADR procedure may be agreed to only as specified in agency guidelines, which must provide advice on appropriate use of binding arbitration and when an agency may settle a dispute through binding arbitration. Binding arbitration is enforceable in court.

The Commission will submit recommended revisions to OMB no later than January 2020 in order to update the C.F.R. to reflect the 51-5.2 language expressed in the “Current State” section above.

FAR Part 8.7 may need to be updated to incorporate language regarding the process from 41 C.F.R. 51 to reference the Contracting Activities’ option to contact the Commission to resolve disputes. This FAR revision may be necessary because most Contracting Officers will not review 41 C.F.R. 51 when executing an AbilityOne Contract.

The Commission has prepared a draft regulation to address a Right of First Refusal to protect disabled employees of an NPA that loses its authorization for particular work on the PL. This Right of First Refusal is different from the standard clause in the FAR that does not apply to contracts awarded under the JWOD Act. The standard clause would offer employment protection to a non-AbilityOne employer, thereby impacting an NPA’s ability to hire its employees who are blind or have significant disabilities. If an NPA leaves the AbilityOne Program or is removed from the AbilityOne Program, there has been a process to transfer employees to another NPA that is assigned any work the disqualified NPA may have been performing on government contracts. That process has included providing the opportunity to change employment to each of the employees and their families. Upon confirmation that the employee wants to change employers, the employee’s records are transferred to the new NPA.

This will be tied into the Policy derived from Panel Recommendation 17 above.

Subcommittee Six recommends the policy also apply to any work that is competed to protect the status of the employees in the Program in the event that an incumbent NPA is not awarded a new contract for the work on the PL, but another NPA in the AbilityOne Program is awarded the

work and can use the existing employee base to perform the contract. This will maintain the longevity of employment intended under the JWOD Act and Commission regulations.

**Implementation Plan/Timeline:** 12 months after 41 C.F.R. 51 revisions submitted for approval (January 2020)

### **Subcommittee Seven: Business Process Re-engineering**

Lead Organization: Defense Logistics Agency, Department of Defense

#### **Recommendations**

20. The following four original recommendations are related and have been combined into a new updated recommendation: Update the Procurement List Information Management System (PLIMS) to reflect detailed information, improve the search functions to enable a more user-friendly interface, and be usable by outside agencies.
- Commission staff will update the online Procurement List (PL) to reflect detailed information and improve the search functions to enable a more user-friendly interface.
  - Recommend contracting systems across DoD be modified to add “flagged checkpoints” requiring the Contracting Officer to ensure mandatory sources (AbilityOne Program) have been searched before the order can be processed.
  - Updating the programs to send up “flags” without easy bypass and requiring a typed justification for audit purposes can help increase the use of the PL.
  - Make the AbilityOne Procurement List Information Management System (PLIMS) available to DoD contracting personnel to check status of contracts, decision documents, and other pertinent information: Include the up-to-date Fair Market Price.
21. Deploy an IT solution either utilizing a system where the PL can be linked to existing contracting vehicles or developing a communal system that routes purchases through the PL prior to other avenues.
22. The following original recommendation from Subcommittee Two (Eliminate Waste, Fraud, and Abuse) has been realigned and will now be tracked under Subcommittee Seven: Build a centralized database on pricing, require fair market pricing documentation and prevailing wage documentation in contracts and negotiation processes between CNAs and NPAs.

23. Implement DoD-wide policy to designate an AbilityOne Representative (ABOR) Program similar to the Air Force model outlined in Air Force Memo Subject: AbilityOne Representative (ABOR) Nomination dated August 31, 2017 and include a contract goal for growth in AbilityOne Program participation.
24. The following two original recommendations are related and have been combined into a new updated recommendation: Pursue DFARS/Procurement Guidance and Information (PGI) language to detail how to do business with the AbilityOne Program.
  - Recommend interim DFARS/PGI revision until the FAR can be modified to incorporate a change detailing a change to business practices, information systems, and training for the proper use of the PL.
  - Develop separate part in the FAR, in addition to FAR 8.7, that details how to do business with AbilityOne (use reserved section).
25. Recommend change to allotted timeframe currently required by the Administrative Procedures Act when adding products or services to the Procurement List.
26. Incorporate Section 508 training for contracting personnel to address DoD-wide section 508 compliance and use DAU online and classroom training to teach AbilityOne information.

The following two original recommendations are very similar to Recommendation #24 and Recommendation #25 above. To eliminate duplication, these recommendations will no longer be tracked separately.

- Recommend changes/additions to local regulations/procedures to enhance ability of DoD contracting personnel to check the PL before making purchases.
- Recommend DoD-wide policy memo emphasizing the importance and establishing a goal for growth in AbilityOne Program participation, as well as requiring the use of AbilityOne representatives.

**Panel Recommendation 20:** Update the Procurement List Information Management System (PLIMS) to reflect detailed information, improve the search functions to enable a more user-friendly interface, and be usable by outside agencies.

**Current State:**

Clarification of this recommendation is necessary because DoD employees need access to the PL, not necessarily PLIMS, which is the database and workflow system used by the Commission. The critical need is for the DoD community to have better functionality and

capability for buying offices when checking the Procurement List for mandatory source items. A promising IT solution has been identified and demonstrated for several AbilityOne customers.

**Courses of Action:**

Subcommittee Seven will support the Commission staff to develop the Statement of Objectives and will consider related procurement issues, e.g. how to protect data rights. Subcommittee Seven will meet with the contractor, then set up a follow-up meeting to discuss timeline, capabilities, and way ahead (possibly another demonstration for the full Subcommittee).

**Implementation Plan/Timeline:** Subcommittee Seven met with the contractor and attended a demonstration of the technology at a conference in May 2019. The Subcommittee held a user feedback session, documented input, and initiated a draft Statement of Objectives. Subcommittee Seven is looking to secure funding in FY 2020 so that further progress can be made.

**Panel Recommendation 21:** Deploy an IT solution either utilizing a system where the PL can be linked to existing contracting vehicles or developing a communal system that routes purchases through the PL prior to other avenues.

**Current State:**

There is currently no connection between the PL and DoD contracting writing systems.

**Courses of Action:**

Subcommittee Seven is continuing to explore ways to “flag” PL requirements within contract writing systems to catch potential errors/missed items in mandatory sources. The Subcommittee sees this effort as doable, but dependent on completion of Panel Recommendation 21 above. The IT solution from Panel Recommendation 21 and this solution should align. Additionally, the solution for this recommendation involves coordination with the applicable office(s) overseeing DoD’s current contract writing systems.

**Implementation Plan/Timeline:** Subcommittee Seven met with the DPC/Contracting eBusiness Director in Q4 FY 2019 to better understand DoD’s contract writing systems, future plans, and technical requirements. User input will be gathered and the way ahead will be re-assessed after completion of Recommendation 21 and funding for FY 2020 is secured.

**Panel Recommendation 22:** Build a centralized database on pricing, require fair market pricing documentation and prevailing wage documentation in contracts and negotiation processes between CNAs and NPAs.

**Current State:**

Subcommittee Seven consulted with the Office of Federal Procurement Policy (OFPP) about other government wide databases and web-based tools. The General Services Administration (GSA) uses a pricing tool called the Prices Paid Portal in the Acquisition Gateway System. GSA

proposed that the U.S. AbilityOne Commission explore that portal and consider establishing a “hallway” in the Acquisition Gateway. The Department of Labor (DOL) has a website that provides wage determination rates applicable to Federal contracts under the Service Contract Act. These existing resources may be used by the Subcommittee in meeting the recommendation.

**Courses of Action:**

Subcommittee Seven is in the process of determining how to incorporate access to the GSA Prices Paid Portal and DOL wage determination database into AbilityOne training. Subcommittee Seven will discuss with GSA how to improve the consistency and accessibility of AbilityOne data in the Prices Paid Portal and explore building an AbilityOne “corridor” in the Acquisition Gateway. The Commission has an opportunity to act as a SME on acquisition community discussion pages.

**Implementation Plan/Timeline:** Incorporate references to Prices Paid Portal and DOL wage rate data into AbilityOne training in Q1 FY 2020. Subcommittee Seven will meet with GSA to learn about functionality and capability of the Acquisition Gateway and Prices Paid Portal as well as understanding more about source of prices in the portal and how data is refreshed. The AbilityOne Commission will pursue making AbilityOne data consistent.

**Panel Recommendation 23:** Implement DoD-wide policy to designate an AbilityOne Representative (ABOR) Program similar to the Air Force model outlined in Air Force Memo Subject: AbilityOne Representative (ABOR) Nomination dated August 31, 2017 and include a contract goal for growth in AbilityOne Program participation.

**Current State:**

The Air Force created the ABOR program in 2017 and implemented it in 2018. The Air Force’s successful roll-out generated lessons learned that can be incorporated by other service components.

**Courses of Action:**

DPC required other DoD agencies to draft and issue ABOR program memos and begin implementation in 2020. ABOR Memos should address a growth goal (e.g. 1.5 percent of spend –Contracting dollars) established by the services.

**Implementation Plan/Timeline:** Subcommittee Seven provided a draft DPC memo language to the 898 Panel staff on September 11, 2019, to be completed and issued to DoD agencies. DoD Agencies would then develop their own ABOR memos and issue to Contracting Commands not later than the date specified in the DPC memo.

**Panel Recommendation 24:** Pursue DFARS (PGI language) to detail how to do business with the AbilityOne Program.

**Current State:**

The U.S. AbilityOne Program/Commission is “known” by Contracting Commands, but still relatively not understood in depth (policies, practices, business dealings).

**Courses of Action:**

Subcommittee Seven will revisit necessary changes to the DFARS after Section 898 Panel recommendations are completed. In the interim, Subcommittee Seven will work with the AbilityOne Commission to develop a policy for conducting business within the AbilityOne Program, to be posted on the DPC website and disseminated to Contracting Commands. Subcommittee Seven will gather FAQs from Contracting Officers across the services to determine best topics to address in potential webinars.

Other courses of action include the use of the Defense Acquisition Workforce Development Fund (DAWDF) and for DAU to host “lunch and learn” sessions where AbilityOne staff can present information and best business practices. These sessions can include webinars (recorded, saved, and posted for real-time use).

**Implementation Plan/Timeline:** Work with Panel leadership on a combined DFARS-focused team or case. For policy guidance, issue an “FAQ call” through the beginning of FY 2020. Draft updated policy for the DPC website and schedule meetings with DAU and key DoD stakeholders to determine timeline for webinar sessions, frequency, location, AbilityOne staff, and topics.

**Panel Recommendation 25:** Recommend change to allotted timeframe currently required by the Administrative Procedures Act (APA) when adding products or services to the Procurement List.

**Current State:**

Following the APA as required by the JWOD Act requires a 30-day initial notice and a 30-day final notice for public comments on additions to the PL, which adds more than 60 days to the total cycle time for new PL items.

**Courses of Action:**

To shorten cycle time or revise the public comment periods required by law, the legislative path includes OMB approval, sponsorship (Congress), and passage of a bill. Subcommittee Seven will develop and implement a Pilot Test or study that uses an IDIQ contract vehicle to reduce cycle time. Subcommittee Seven will also launch a process streamlining effort for the Procurement List, such as Lean Six Sigma.

**Implementation Plan/Timeline:** Incorporate recommendation to modify the Commission’s use of 30-day initial and final public comment periods into the statutory change package from the Section 898 Panel. Hold exploratory meetings to map out and identify PL process changes or

other contracting solutions (such as IDIQ contracts) that will be the most advantageous in reducing cycle time.

**Panel Recommendation 26:** Incorporate Section 508 training for contracting personnel to address DoD-wide section 508 compliance and use DAU online and classroom training to teach AbilityOne information.

**Current State:**

GSA operates a robust website, [www.section508.gov](http://www.section508.gov), which is a resource for the entire Federal Government. The CIO Council also has a lead role in implementing Section 508 compliance. The most recent guidance to reference Section 508 resources was issued by DPC on October 11, 2019 through a memorandum highlighting National Disability Employment Awareness Month (NDEAM).

**Courses of Action:**

Subcommittee Seven will work with the AbilityOne Commission to provide navigation to Section 508 resources within the DAU AbilityOne Training. Subcommittee Seven will develop informational documents (not formal “training”) to be hosted on DAU’s community sites for the acquisition community to become more familiar and versed in section 508 requirements. Subcommittee Seven recommends DPC and the CIO issue a joint memorandum raising awareness once a FAR Case updating Sec. 508 compliance and training is concluded.

**Implementation Plan/Timeline:** This recommendation is complete. The AbilityOne Commission delivered updated informational documents, including navigation information to Section 508 resources, posted to [www.abilityone.gov](http://www.abilityone.gov), and sent information to DAU on November 1, 2019. DPC issued guidance through the NDEAM memo on October 11, 2019, requiring the acquisition workforce to comply with Section 508.

**Section III: Next Steps**

**Panel Way Ahead in 2020**

The Panel has four meetings and a subcommittee off-site scheduled in 2020. The work of the Panel the past two years involved significant commitment and collaboration to develop recommendations, implementation plans, initiating pilots, and outreach engagement, all to address the statutory duties of the Panel.



An AbilityOne employee at Goodwill Industries of South Florida, sewing a U.S. flag.

In 2020, the Panel is considering the combination of Subcommittees 3 (Employment Initiatives) and Subcommittee 5 (Veterans Eligibility). The subcommittees will focus on taking actions to implement the recommendations, which may involve drafting changes

to law, regulations, or policy to eliminate the specific areas of vulnerability to waste, fraud, and abuse as set forth of Section II of the report. The Panel will continue the outreach communications, feasibility studies, implementation of actionable recommendations, and consider other innovative opportunities for the Program's future to support growing the employment mission of the AbilityOne Program.

The Department expects to submit the third annual Panel report by the end of December 2020.

**Section IV: Appendices (attached as stated)**

Appendix A – U.S. AbilityOne Commission Program Site Map of the United States

Appendix B – Letter from Panel Chair to the U.S. AbilityOne Commission Chair

Appendix C - Letter from the U.S. AbilityOne Commission Chair to the Panel Chair

Appendix D – Section 898 of the National Defense Authorization Act for FY 2017

Appendix E – List of Commission Pilot Studies

Appendix F – Letters from External Organizations

Appendix G - List of Panel Recommendations

Appendix H - DoD National Disability Employment Awareness Month Memorandum

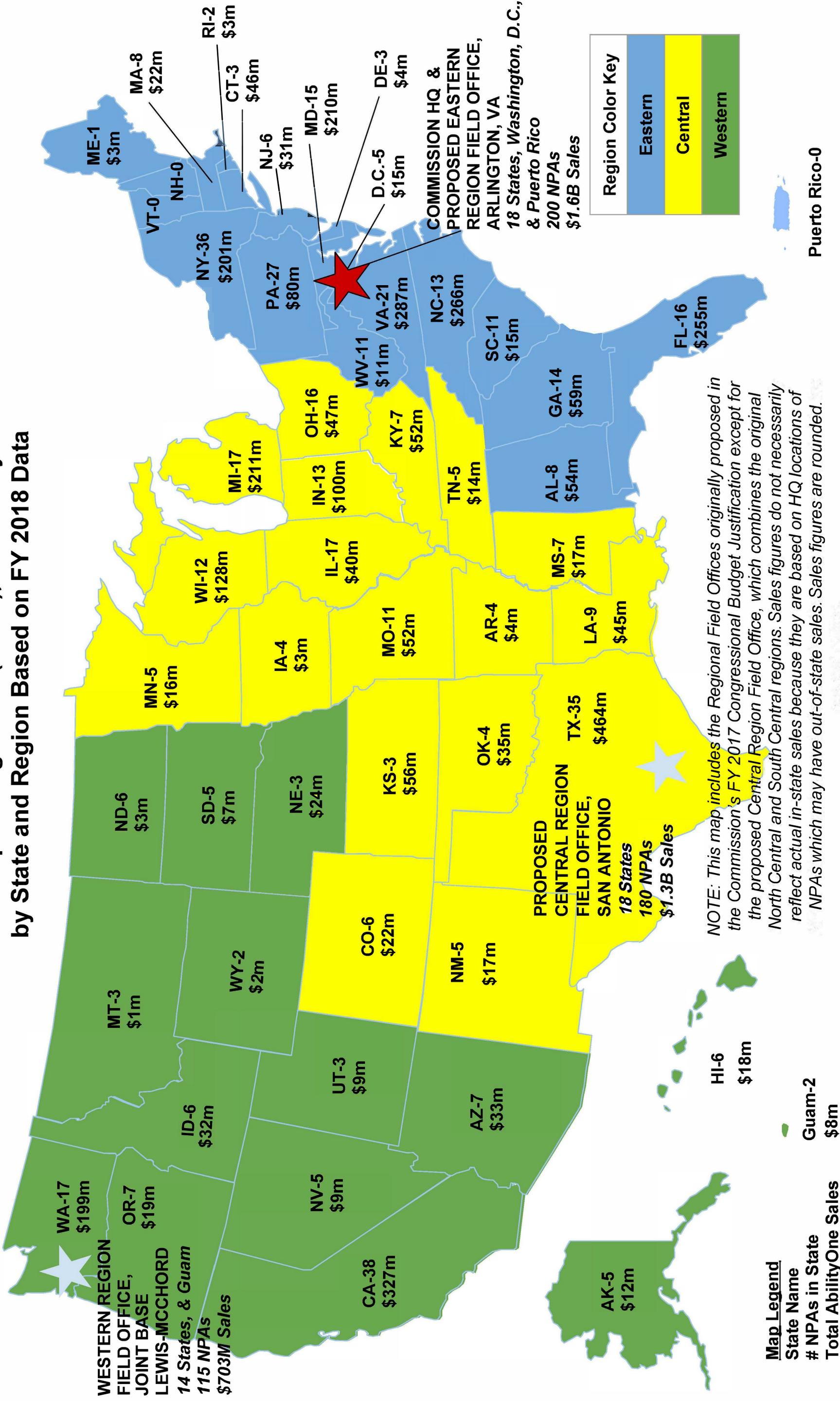
# Appendix

## A



# U.S. AbilityOne Commission

## Regional Field Office Locations, Number of Nonprofit Agencies (NPAs), and AbilityOne Sales by State and Region Based on FY 2018 Data



**NOTE:** This map includes the Regional Field Offices originally proposed in the Commission's FY 2017 Congressional Budget Justification except for the proposed Central Region Field Office, which combines the original North Central and South Central regions. Sales figures do not necessarily reflect actual in-state sales because they are based on HQ locations of NPAs which may have out-of-state sales. Sales figures are rounded.

**Map Legend**  
 State Name  
 # NPAs in State  
 Total AbilityOne Sales

**Region Color Key**

- Eastern
- Central
- Western

Puerto Rico-0

# Appendix

# B



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

ACQUISITION  
AND SUSTAINMENT

OCT 25 2019

Mr. Tom Robinson  
Chairperson  
U.S. AbilityOne Commission  
1401 S. Clark Street  
Suite 715  
Arlington, Virginia 22202

Dear Mr. Robinson,

Section 898 of the National Defense Authorization Act of Fiscal Year 2017 (Pub. L. 114-328), required the Secretary of Defense to establish a “Panel on Department of Defense and United States (U.S.) AbilityOne Contracting Oversight, Accountability, and Integrity.” The Panel has a multi-faceted mission and includes representatives who are Presidential appointees, Military Officers, Senior Executives from the Department of Defense (DoD) and the U.S. AbilityOne Commission, and senior leaders from Federal Civilian Agencies such as the Department of Justice, Veterans Affairs, and the Department of Labor.

During my tenure as Chair of the Panel, I have engaged in outreach with U.S. AbilityOne stakeholders and, along with members of the panel, have heard from U.S. AbilityOne employees and visited nonprofit agencies you oversee. These nonprofit agencies are a vital part of the defense industrial base and in Fiscal Year 2019, provided more than \$2.4 billion in products and services to DoD. For such a major program, it is imperative the Commission is sufficiently resourced to perform the oversight function of the U.S. AbilityOne Program.

Congress determined that transformation and modernization of the U.S. AbilityOne Program are so important that the statute requires implementation of all panel recommendations. The panel and seven subcommittees provided 41 recommendations in the first annual Report to Congress, emphasizing additional Commission staff and significant improvements in Information Technology (IT) systems are needed.

The Department has never had a greater need than it does now for speed, quality, and value in U.S. AbilityOne products and services. To this end, I am encouraged that you immediately implemented a competition pilot test as recommended by the panel. I understand the process was entirely new for the U.S. AbilityOne program and, when fully applied, we can expect significant savings through competition.

The panel is committed to advancing the U.S. AbilityOne mission of employment for individuals who are blind or who have significant disabilities, and for veterans with disabilities. To implement the panel recommendations, it is crucial that you ensure the Commission has the staff and the IT resources needed to fulfill your mission.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Herrington', written over a horizontal line.

Kim Herrington  
Acting Principal Director,  
Defense Pricing and Contracting

cc:

Ms. Tina Ballard, Executive Director, U.S. AbilityOne Commission

# Appendix C



## U.S. ABILITYONE COMMISSION

December 13, 2019

PHONE: 703-603-7740  
FAX : 703-603-0655

1401 S. Clark Street, Suite 715  
Arlington, Virginia 22202-4149

MEMORANDUM FOR THE HONORABLE ELLEN M. LORD, UNDER SECRETARY OF DEFENSE (ACQUISITION & SUSTAINABILITY)

FROM: THOMAS D. ROBINSON, CHAIRPERSON

As required by section 898(i)(1) of the FY 2017 National Defense Authorization Act, I am providing the U.S AbilityOne Commission's assessment of the Second Annual Report of the Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity. We appreciate DOD's leadership of the 898 Panel and the annual report.

The Commission reviewed and supports the content and recommendations in the report. Commission members and staff participate on the Panel and look forward to its continued discussions, as well as further development and prioritization of its recommendations.

We continue to strongly concur with the finding that the Commission lacks adequate resources – a conclusion also reached in reports from the Government Accountability Office (GAO Report GAO-13-457) and the Commission's Office of Inspector General. The Commission is a critical partner in the implementation of the recommendations in 898 Panel report. Currently, the Commission has only 32 FTEs to administer a \$3.6 billion program employing approximately 45,000 people who are blind or have significant disabilities at approximately 500 nonprofit agencies operating across all 50 U.S. states, Puerto Rico and Guam.

As recommended by the Panel, the Commission completed a pilot test of competition among nonprofit agencies in the AbilityOne Program. The result was nearly 20% in savings to the Army. Commission staff worked long hours, evenings and weekends to make that happen while also performing the day-to-day mission of the agency.

The Army has identified multiple Procurement List contracts that it wants competed among AbilityOne nonprofits. It is not unusual for an organization running a program of this size to have a staff three to four times the size of the Commission staff.

Additional funding is crucial to the successful execution of the Panel's recommendations and our mission to provide employment opportunities for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government.



Memorandum for  
The Honorable Ellen M. Lord  
Undersecretary of Defense

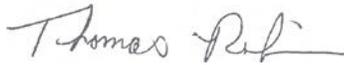
Page 2  
Section 898(i)(1)  
2017 NDAA

We commend the outstanding leadership of the Panel Chairman, Mr. Kim Herrington, Acting Principal Director, Defense Pricing and Contracting, in the Office of the Secretary of Defense. Mr. Herrington has emphasized engaging the nonprofit community and outreach in communication as central elements of Panel activities. In addition, he has led a vital national dialogue with nonprofit agencies, including site visits in conjunction with his DOD travels.

More than 70% of people with disabilities are currently not in the workforce – a striking statistic given that the national unemployment rate of 3.5% is the lowest since the 1960s. People who are blind and/or have significant disabilities are an untapped workforce. The Commission is committed to increasing their employment and thereby increasing their contributions to the economy.

The 898 Panel recommendations are transforming the AbilityOne Program and its continued value to the Department of Defense. The Commission remains committed to the success of the Panel, and looks forward to its continued progress.

Sincerely,



Thomas D. Robinson  
Chairperson

cc: Kim Herrington, Acting Principal Director, Defense Pricing and Contracting  
Robert T. Kelly, Jr., Vice Chairperson, U.S. AbilityOne Commission  
James M. Kesteloot, Immediate Past Chairperson, U.S. AbilityOne Commission  
E. Ballard, Executive Director, U.S. AbilityOne Commission



# Appendix

# D

vation Research Program or Small Business Technology Transfer Program for the pilot program under this section shall be considered to be use of competitive procedures for purposes of chapter 137 of title 10, United States Code.

“(d) **DISCRETION TO USE NON-CERTIFIED ACCOUNTING SYSTEMS.**—In executing programs under this pilot program, the Secretary of Defense shall establish procedures under which a small business or nontraditional contractor may engage an independent certified public accountant for the review and certification of its accounting system for the purposes of any audits required by regulation, unless the head of the agency determines that this is not appropriate based on past performance of the specific small business or nontraditional defense contractor, or based on analysis of other information specific to the award.

“(e) **GUIDANCE AND TRAINING.**—The Secretary of Defense shall ensure that acquisition and auditing officials are provided guidance and training on the flexible use and tailoring of authorities under the pilot program to maximize efficiency and effectiveness.”.

**SEC. 897. RAPID PROTOTYPING FUNDS FOR THE MILITARY DEPARTMENTS.**

Section 804(d) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2302 note), as amended by section 864 of this Act, is further amended—

(1) in the subsection heading, by striking “FUND” and inserting “FUNDS”;

(2) in paragraph (1), by striking “IN GENERAL.—The Secretary” and inserting the following: “DEPARTMENT OF DEFENSE RAPID PROTOTYPING FUND.—

“(A) **IN GENERAL.**—The Secretary”;

(3) by redesignating paragraphs (2) and (3) as subparagraphs (B) and (C), respectively, and moving such subparagraphs, as so redesignated, two ems to the right;

(4) in subparagraph (B), as redesignated by paragraph (3), by striking “this subsection” and inserting “this paragraph”;

and  
(5) by inserting after paragraph (1) the following new paragraph:

“(2) **RAPID PROTOTYPING FUNDS FOR THE MILITARY DEPARTMENTS.**—The Secretary of each military department may establish a military department-specific fund (and, in the case of the Secretary of the Navy, including the Marine Corps) to provide funds, in addition to other funds that may be available to the military department concerned, for acquisition programs under the rapid fielding and prototyping pathways established pursuant to this section. Each military department-specific fund shall consist of amounts appropriated or credited to the fund.”.

**SEC. 898. ESTABLISHMENT OF PANEL ON DEPARTMENT OF DEFENSE AND ABILITY ONE CONTRACTING OVERSIGHT, ACCOUNTABILITY, AND INTEGRITY; DEFENSE ACQUISITION UNIVERSITY TRAINING.**

(a) **ESTABLISHMENT OF PANEL ON DEPARTMENT OF DEFENSE AND ABILITY ONE CONTRACTING OVERSIGHT, ACCOUNTABILITY, AND INTEGRITY.**—

(1) **IN GENERAL.**—The Secretary of Defense shall establish a panel to be known as the “Panel on Department of Defense

and AbilityOne Contracting Oversight, Accountability, and Integrity” (hereafter in this section referred to as the “Panel”). The Panel shall be supported by the Defense Acquisition University, established under section 1746 of title 10, United States Code, and the National Defense University, including administrative support.

(2) *COMPOSITION.*—The Panel shall be composed of the following:

(A) A representative of the Under Secretary of Defense for Acquisition, Technology, and Logistics, who shall be the chairman of the Panel.

(B) A representative from the AbilityOne Commission.

(C) A representative of the service acquisition executive of each military department and Defense Agency (as such terms are defined, respectively, in section 101 of title 10, United States Code).

(D) A representative of the Under Secretary of Defense (Comptroller).

(E) A representative of the Inspector General of the Department of Defense and the AbilityOne Commission.

(F) A representative from each of the Army Audit Agency, the Navy Audit Service, the Air Force Audit Agency, and the Defense Contract Audit Agency.

(G) The President of the Defense Acquisition University, or a designated representative.

(H) One or more subject matter experts on veterans employment from a veterans service organization.

(I) A representative of the Commission Directorate of Veteran Employment of the AbilityOne Commission whose duties include maximizing opportunities to employ significantly disabled veterans in accordance with the regulations of the AbilityOne Commission.

(J) One or more representatives from the Department of Justice who are subject matter experts on compliance with disability rights laws applicable to contracts of the Department of Defense and the AbilityOne Commission.

(K) One or more representatives from the Department of Justice who are subject matter experts on Department of Defense contracts, Federal Prison Industries, and the requirements of the Javits-Wagner-O’Day Act.

(L) Such other representatives as may be determined appropriate by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(b) *MEETINGS.*—The Panel shall meet as determined necessary by the chairman of the Panel, but not less often than once every three months.

(c) *DUTIES.*—The Panel shall—

(1) review the status of and progress relating to the implementation of the recommendations of report number DODIG–2016–097 of the Inspector General of the Department of Defense titled “DoD Generally Provided Effective Oversight of AbilityOne Contracts”, published on June 17, 2016;

(2) recommend actions the Department of Defense and the AbilityOne Commission may take to eliminate waste, fraud,

and abuse with respect to contracts of the Department of Defense and the AbilityOne Commission;

(3) recommend actions the Department of Defense and the AbilityOne Commission may take to ensure opportunities for the employment of significantly disabled veterans and the blind and other severely disabled individuals;

(4) recommend changes to law, regulations, and policy that the Panel determines necessary to eliminate vulnerability to waste, fraud, and abuse with respect to the performance of contracts of the Department of Defense;

(5) recommend criteria for veterans with disabilities to be eligible for employment opportunities through the programs of the AbilityOne Commission that considers the definitions of disability used by the Secretary of Veterans Affairs and the AbilityOne Commission;

(6) recommend ways the Department of Defense and the AbilityOne Commission may explore opportunities for competition among qualified nonprofit agencies or central nonprofit agencies and ensure an equitable selection and allocation of work to qualified nonprofit agencies;

(7) recommend changes to business practices, information systems, and training necessary to ensure that—

(A) the AbilityOne Commission complies with regulatory requirements related to the establishment and maintenance of the procurement list established pursuant to section 8503 of title 41, United States Code; and

(B) the Department of Defense complies with the statutory and regulatory requirements for use of such procurement list; and

(8) any other duties determined necessary by the Secretary of Defense.

(d) CONSULTATION.—To carry out the duties described in subsection (c), the Panel may consult or contract with other executive agencies and with experts from qualified nonprofit agencies or central nonprofit agencies on—

(1) compliance with disability rights laws applicable to contracts of the Department of Defense and the AbilityOne Commission;

(2) employment of significantly disabled veterans; and

(3) vocational rehabilitation.

(e) AUTHORITY.—To carry out the duties described in subsection (c), the Panel may request documentation or other information needed from the AbilityOne Commission, central nonprofit agencies, and qualified nonprofit agencies.

(f) PANEL RECOMMENDATIONS AND MILESTONE DATES.—

(1) MILESTONE DATES FOR IMPLEMENTING RECOMMENDATIONS.—After consulting with central nonprofit agencies and qualified nonprofit agencies, the Panel shall suggest milestone dates for the implementation of the recommendations made under subsection (c) and shall notify the congressional defense committees, the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, qualified nonprofit agencies, and central nonprofit agencies of such dates.

(2) *NOTIFICATION OF IMPLEMENTATION OF RECOMMENDATIONS.*—After the establishment of milestone dates under paragraph (1), the Panel may review the activities, including contracts, of the AbilityOne Commission, the central nonprofit agencies, and the relevant qualified nonprofit agencies to determine if the recommendations made under subsection (c) are being substantially implemented in good faith by the AbilityOne Commission or such agencies. If the Panel determines that the AbilityOne Commission or any such agency is not implementing the recommendations, the Panel shall notify the Secretary of Defense, the congressional defense committees, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

(g) *REMEDIES.*—

(1) *IN GENERAL.*—Upon receiving notification under subsection (f)(2) and subject to the limitation in paragraph (2), the Secretary of Defense may take one of the following actions:

(A) With respect to a notification relating to the AbilityOne Commission, the Secretary may suspend compliance with the requirement to procure a product or service in section 8504 of title 41, United States Code, until the date on which the Secretary notifies Congress, in writing, that the AbilityOne Commission is substantially implementing the recommendations made under subsection (c).

(B) With respect to a notification relating to a qualified nonprofit agency, the Secretary may terminate a contract with such agency that is in existence on the date of receipt of such notification, or elect to not enter into a contract with such agency after such date, until the date on which the AbilityOne Commission certifies to the Secretary that such agency is substantially implementing the recommendations made under subsection (c).

(C) With respect to a notification relating to a central nonprofit agency, the Secretary may include a term in a contract entered into after the date of receipt of such notification with a qualified nonprofit agency that is under such central nonprofit agency that states that such qualified nonprofit agency shall not pay a fee to such central nonprofit agency until the date on which the AbilityOne Commission certifies to the Secretary that such central nonprofit agency is substantially implementing the recommendations made under subsection (c).

(2) *LIMITATION.*—If the Secretary of Defense takes any of the actions described in paragraph (1), the Secretary shall coordinate with the AbilityOne Commission or the relevant central nonprofit agency, as appropriate, to fully implement the recommendations made under subsection (c). On the date on which such recommendations are fully implemented, the Secretary shall notify Congress, in writing, and the Secretary's authority under paragraph (1) shall terminate.

(h) *PROGRESS REPORTS.*—

(1) *CONSULTATION ON RECOMMENDATIONS.*—Before submitting the progress report required under paragraph (2), the Panel shall consult with the AbilityOne Commission on draft

recommendations made pursuant to subsection (c). The Panel shall include any recommendations of the AbilityOne Commission in the progress report submitted under paragraph (2).

(2) *PROGRESS REPORT.*—Not later than 180 days after the date of the enactment of this Act, the Panel shall submit to the Secretary of Defense, the Chairman of the AbilityOne Commission, the congressional defense committees, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a progress report on the activities of the Panel.

(i) *ANNUAL REPORT.*—

(1) *CONSULTATION ON REPORT.*—Before submitting the annual report required under paragraph (2), the Panel shall consult with the AbilityOne Commission on the contents of the report. The Panel shall include any recommendations of the AbilityOne Commission in the report submitted under paragraph (2).

(2) *REPORT.*—Not later than September 30, 2017, and annually thereafter for the next three years, the Panel shall submit to the Secretary of Defense, the Chairman of the AbilityOne Commission, the congressional defense committees, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that includes—

(A) a summary of findings and recommendations for the year covered by the report;

(B) a summary of the progress of the relevant qualified nonprofit agencies or central nonprofit agencies in implementing recommendations of the previous year's report, if applicable;

(C) an examination of the current structure of the AbilityOne Commission to eliminate waste, fraud, and abuse and to ensure contracting integrity and accountability for any violations of law or regulations;

(D) recommendations for any changes to the acquisition and contracting practices of the Department of Defense and the AbilityOne Commission to improve the delivery of goods and services to the Department of Defense; and

(E) recommendations for administrative safeguards to ensure the Department of Defense and the AbilityOne Commission are in compliance with the requirements of the Javits-Wagner-O'Day Act, Federal civil rights law, and regulations and policy related to the performance of contracts of the Department of Defense with qualified nonprofit agencies and the contracts of the AbilityOne Commission with central nonprofit agencies.

(j) *SUNSET.*—The Panel shall terminate on the date of submission of the last annual report required under subsection (i).

(k) *INAPPLICABILITY OF FACIA.*—The requirements of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel established pursuant to subsection (a).

(l) *DEFENSE ACQUISITION UNIVERSITY TRAINING.*—

(1) *IN GENERAL.*—The Secretary of Defense shall establish a training program at the Defense Acquisition University estab-

lished under section 1746 of title 10, United States Code. Such training shall include—

(A) information about—

- (i) the mission of the AbilityOne Commission;
- (ii) the employment of significantly disabled veterans through contracts from the procurement list maintained by the AbilityOne Commission;
- (iii) reasonable accommodations and accessibility requirements for the blind and other severely disabled individuals; and
- (iv) Executive orders and other subjects related to the blind and other severely disabled individuals, as determined by the Secretary of Defense; and

(B) procurement, acquisition, program management, and other training specific to procuring goods and services for the Department of Defense pursuant to the Javits-Wagner-O'Day Act.

(2) ACQUISITION WORKFORCE ASSIGNMENT.—Members of the acquisition workforce (as defined in section 101 of title 10, United States Code) who have participated in the training described in paragraph (1) are eligible for a detail to the AbilityOne Commission.

(3) ABILITYONE COMMISSION ASSIGNMENT.—Career employees of the AbilityOne Commission may participate in the training program described in paragraph (1) on a non-reimbursable basis for up to three years and on a non-reimbursable or reimbursable basis thereafter.

(4) FUNDING.—Amounts from the Department of Defense Acquisition Workforce Development Fund established under section 1705 of title 10, United States Code, are authorized for use for the detail of members of the acquisition workforce to the AbilityOne Commission.

(m) DEFINITIONS.—In this section:

(1) The term “AbilityOne Commission” means the Committee for Purchase From People Who Are Blind or Severely Disabled established under section 8502 of title 41, United States Code.

(2) The terms “blind”, “qualified nonprofit agency for the blind”, “qualified nonprofit agency for other severely disabled”, and “severely disabled individual” have the meanings given such terms under section 8501 of such title.

(3) The term “central nonprofit agency” means a central nonprofit agency designated under section 8503(c) of such title.

(4) The term “executive agency” has the meaning given such term in section 133 of such title.

(5) The term “Javits-Wagner-O'Day Act” means chapter 85 of such title.

(6) The term “qualified nonprofit agency” means—

(A) a qualified nonprofit agency for the blind; or

(B) a qualified nonprofit agency for other severely disabled.

(7) The term “significantly disabled veteran” means a veteran (as defined in section 101 of title 38, United States Code) who is a severely disabled individual.

lic accountant for the review and certification of its accounting system for the purposes of any audits required by this section.

The House amendment contained no similar provision.

The House recedes with an amendment that would include auditing officials in the list of personnel who are provided guidance and training on the flexible use and tailoring of authorities under the pilot program.

*Rapid prototyping funds for the military departments (sec. 897)*

The Senate bill contained a provision (sec. 899A) that would amend section 804(d) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) to authorize the Secretary of the Army, Navy, and Air Force each to establish service-specific funds for acquisition programs under the rapid fielding and prototyping pathways established in this section.

The House amendment contained no similar provision.

The House recedes.

*Establishment of Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity; Defense Acquisition University training (sec. 898)*

The Senate bill contained a provision (sec. 829H) that would prohibit the Secretary of Defense from arranging contracts through AbilityOne, or its central non-profit agency, SourceAmerica, and instead require the Secretary to contract directly with qualified non-profit agencies for the severely disabled until the Department of Defense (DOD) Inspector General conducted a review and certified the effectiveness of the internal controls and financial management of AbilityOne and SourceAmerica.

The House amendment contained no similar provision.

The House recedes with an amendment that would establish a panel on DOD and AbilityOne contracting oversight, accountability, and integrity to review and address the effectiveness and internal controls of the program related to DOD contracts.

*Coast Guard major acquisition programs (sec. 899)*

The House amendment contained a provision (sec. 835) that would amend section 56(c) of title 14, United States Code, to direct the Chief Acquisitions Officer of the Coast Guard to inform the Commandant of developments in major acquisition programs that have new or revisited trade-offs between costs, scheduling, feasibility, and performance. This section also would amend chapter 15 of title 14, United States Code, to clarify the role of the Acquisition Directorate in ensuring that the needs of customers in major acquisition programs are met in the most cost-effective manner practicable. The Vice Commandant of the Coast Guard would be responsible for representing the operating field units and would serve an advisory role to the Commandant for major acquisition programs. The customer of a major acquisition program would be specified as the operating field unit that would field the acquired system and “major acquisition program” would be defined as a program with a life-cycle cost estimate of \$300.0 million or more.

This section also would prohibit the Commandant of the Coast Guard from awarding a contract for the design of an unmanned

# Appendix

# E

**Panel on Department of Defense and AbilityOne Contracting Oversight,  
Accountability and Integrity**

**Second Annual Report to Congress (December 2019)**

**Appendix E - List of Commission Pilot Studies**

Pilot	Description	Start Date	End Date	Status
Competition	Apply a contract competition process within the AbilityOne Program. The project chosen is the Facility Support Operations Services (FSOS) at Ft. Bliss. The competition is led by the Commission with support by SourceAmerica and the Army (IMCOM, MICC). Interested Non-Profit Agencies (NPAs) within the AbilityOne Program will submit proposals for the FSOS contract. The services are anticipated to start February 1, 2019.	04/19/2019	11/19/2019	Completed - NPA has been authorized and Fair Market Price established. Next steps:  1) Conduct debriefs with all NPAs involved.  2) Conduct after action review with Commission staff, Army and SourceAmerica.  3) Evaluate possibility for future Competitions.
Ratio	The AbilityOne Commission and SourceAmerica are conducting an AbilityOne project ratio pilot to better understand how NPAs would take advantage of a lower direct labor hour ratio (DLHR) on targeted AbilityOne projects. The selected NPA will achieve and must maintain a lower DLHR specified for each contract in the pilot, of 35, 45, or 55 percent DLHR. The pilot will continue for	12/19/2019	4-5 years	Ratio Pilot Team has selected two NPAs to participate in the demonstration. They will represent project ratios of 45% & 55%, respectively. The team is also considering a third NPA that is currently participating in a complex project incorporating a low ratio. Mathematica will initiate implementation of

Pilot	Description	Start Date	End Date	Status
	the duration of the contract period of performance - a base year plus 4 option years. The data gathering and analysis will be conducted by Mathematica, a research and data collection company contracted by SourceAmerica.			the pilot in January 2020.
Veterans Eligibility - Apprenticeship	<p>Demonstrate whether proposed definition of “Other Disabilities” increases employment and Veterans Affairs (VA) referrals of Veterans with significant disabilities to AbilityOne Program Providers.</p> <p>Simplify process to determine eligibility criteria from existing VA medical documents received from authorized Federal/State offices.</p> <p>Study analytics used to determine if a more defined criterion is required for veterans to have access to supported employment accommodations.</p>	12/1/2019	12/1/2022	The apprenticeship is under review to meet the Department of Labor Office of Apprenticeship National Program Standards, which allows multiple-member NPAs to participate in every State and gives the Commission access to data ranging from referrals placement, upward, and outward tracking of participant. The approval date is scheduled for January 2020 pending any changes. A decision document is being prepared for staffing through the Commission Executive Director with final approval from the Chair, U.S. AbilityOne Commission.

# Appendix

## F



1310 Braddock Place  
Alexandria, VA 22314-1691  
703-310-0500  
www.nib.org

November 5, 2018

The Honorable Shay D. Assad  
Principal Director, Defense Pricing and Contracting  
Chair, Panel on the Department of Defense and AbilityOne Contracting  
Oversight, Accountability, and Integrity  
Washington, DC 20301-3060

Dear Mr. Assad:

Thank you for the opportunity to provide a response from National Industries for the Blind (NIB) and National Association for the Employment of People Who Are Blind (NAEPB) to the recommendations of the 898 Panel (Panel on the Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity).

The Department of Defense and the military branches are our largest and most important customer, and we support this work to ensure there is integrity and accountability as our nonprofit agencies provide vital products and services in support of the warfighter.

Many of the 41 recommendations contained in 2018 First Annual Report to Congress will require either regulatory or legislative action to implement, and this will not be a quick process. It is essential that the Central Nonprofit Agencies (CNAs) and associated Nonprofit Agencies (NPAs) have the opportunity to engage in in-depth discussions with members of the 898 Panel to better understand why certain recommendations were made and so that agencies and front-line employees can better explain current operations and processes at these agencies.

In the meantime, we would suggest focusing on those recommendations where there is greater clarity and support, and which can be implemented more readily. These recommendations would include, but not be limited to:

- Subcommittee One and compliance/training
- Subcommittee Five, as we favor initiatives that ease the process for qualifying to participate in the program (“presumptive eligibility”) as long as they do not dilute the focus of the program from serving those that are the most severely disabled;



- Subcommittee Six recommendation to create a dollar threshold for representations and certifications on contracts; and
- Subcommittee Seven and nearly all the recommendations under Technology, Policy and Training. We strongly support initiatives to enhance the Procurement List and its use by DoD contracting personnel.

Concerning other recommendations that either require regulatory or legislative action to enact, or that we believe to be either difficult to support at this time or in need of greater clarification, here is a brief summary of those areas:

- Restrictions on use of CNA fee revenue for lobbying, as we feel that it is vital for our elected representatives to hear directly from their constituents on matters involving disability employment policies. This issue raises First Amendment concerns and runs counter to a 2013 GAO report validating advocacy by CNAs as appropriate since no federal appropriations are expended;
- Recommendations under Subcommittee Three that appear to be unfunded mandates and require further discussion and illumination;
- Other recommendations contained within Subcommittee Three would appear to be more relevant for agencies serving individuals who are significantly disabled, and we would need greater clarification. The same holds true for several recommendations under Subcommittee Five (Veterans Eligibility), though we favor initiatives that ease the process for qualifying veterans to participate in the program, or “presumptive eligibility”;
- Penalties for CNAs and NPAs for failure to follow policies and procedures;
- Subcommittee Six recommendations need further explanation to better understand impact to agency processes. We are concerned about inserting price/value considerations into the CNAs’ selection process, as it changes the dynamic of the process and diminishes the Commission’s obligation to determine fair and reasonable price. Moreover, we support retaining the evergreen status of procurement list assignments except when there is an issue of nonperformance; and
- Several of the sub-bullet recommendations under Subcommittee Seven (recommendation #7) require expanded explanation so we can better understand how they might impact current operations; and
- There is general concern regarding recommendations that necessitate reopening the JWOD statute, and we would appreciate expanded conversation on this matter.

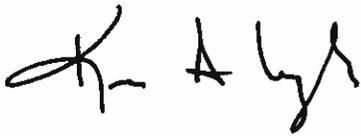
We appreciate having the opportunity to provide our initial feedback on the 898 Panel recommendations, and we look forward to positive conversations that provide greater understanding on all sides and strengthen oversight and integrity within the program. Because of the complexity of the issues, we would be grateful for the chance to brief you in person. In the meantime, we have attached a power point presentation to this letter, which explores some of the key issues.



We would recommend a town hall meeting with NPA's to address questions and hear concerns. We support convening a meeting of the G-5, comprised of the NAEPB, NCSE, NIB, SourceAmerica and the Commission so we can be more actively engaged in discussing the recommendations and seeing how to apply those that can be implemented and to respond to those that raise concerns or do not appear to support the program's goals and mission.

We are confident that all parties have as an end goal strengthening the partnership between the Department of Defense and AbilityOne in a manner that continues to support our nation's men and women in uniform while providing quality employment opportunities for Americans who are blind or significantly disabled.

Sincerely,



Kevin A. Lynch  
President and CEO  
National Industries for the Blind



Reinhard Mabry  
President, National Association for the Employment of People Who Are Blind  
President and CEO, Alphapointe, Kansas City, Missouri

Cc: Tina Ballard  
Executive Director, U.S. AbilityOne Commission



# 898 Panel Additional Supporting Documentation

NIB and NAEPB  
November 2018



# Changes to the Labor Ratio Requirement

- There is strong support for including indirect labor in the labor ratio requirement for AbilityOne producing agencies.
- Because the current labor ratio requirement counts only direct labor hours, it does not recognize all the direct labor employees who are blind and that have received training and professional developmental and who have moved on to indirect labor managerial and supervisory positions – including executive positions.

# Changes to the Labor Ratio Requirement continued

As for lowering the labor ratio requirement overall to something less than the current 75%, this certainly has appeal for aligning the program more closely with current disability policy (Competitive, Integrated Employment, or CIE).

- Our community is split over this issue since there is also a realization that by lowering the labor ratio requirement it would more than likely result in fewer people who are blind being employed on AbilityOne contracts. This runs counter to the mission to increase employment for people who are blind.
- Further, by lowering the labor ratio requirement to something significantly less than 50% it is highly likely the small business community would begin to argue that this mandatory purchase program is being given an unfair advantage in the federal marketplace.

# Reopening the JWOD Act

- Any of the recommendations that would require reopening the Javits-Wagner-O'Day (JWOD) Act should be considered with great care and with the significant involvement of all the interested parties.
- There are a wide range of opinions concerning the AbilityOne Program and whether or not it should be reformed, how significantly it should be changed, and the value of aligning it with current disability policy.
- Just as it was difficult to reach consensus nearly 10 years ago when Congress convened discussions around JWOD modernization and produced legislation to effect change in the program, it will be just as challenging to reach consensus amongst a wide range of stakeholders and interested parties. Today it will be even more challenging to achieve any form of consensus.

# Reopening the JWOD Act continued

- The WIOA (Workforce Innovation and Opportunity Act) Advisory Committee (Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities) Final Report issued in September 2016 dedicated an entire chapter to AbilityOne and made several reform recommendations.
- Disability advocacy organizations have also put forward their own recommendations, as did a recently-released report from the National Council on Disabilities (NCD).
- It is likely that SDVOSBs would weigh in should the JWOD Act be opened.
- There are also GAO (Government Accountability Office) reports that have been issued with recommendations for changes to the program.
- The 898 Panel recommendations have not been issued in a vacuum and reopening the program's authorizing statute will attract significant interest from organizations with varied interests in either enhancing the program, or potentially even closing it down. Success will be dependent upon the degree to which the process is open and collaborative.

# Competition Among NPAs

**We agree there must be processes developed and implemented that will allow the customer to better and more quickly resolve any performance or price concerns.**

Subcommittee Six (Acquisition and Procurement) raises a number of questions and concerns, and among them are the following:

1. Inserting price and value considerations into the agency selection process has never been a driver of the program. The Commission's responsibility is to determine a fair market price once qualified agencies are approved for new projects.
2. There are a number of serious questions about the rules under which this could work including what would trigger this process and to address things such as remediation and due process.

Competition on the basis of price and value will detrimentally affect blind and disabled employment. Competition on this basis will benefit larger and more experienced nonprofit agencies. Smaller or less sophisticated nonprofit agencies will cease to participate in the program, continuing a trend that has been evident for a decade. Re-competition of assignments will detrimentally affect blind and disabled employment and likely increase costs to the customer as nonprofit agencies ensure they recover their capital and other costs within the contract/assignment term.

# Competition Among NPAs continued

3. A number of recommendations within this subcommittee would add cost considerations and would potentially make an already challenging Procurement List addition process even more burdensome without necessarily helping agencies create more jobs for people who are blind.
4. A significant number of concerns are raised around the matter of reassigning projects and then requiring the incumbent agency to assign as many employees as possible to the successor agency; disclosing personnel records; disclosing proprietary financial information; and negotiating the transfer of fringe benefits.

While the goal is commendable, these recommended actions under the category of re-competition could easily be perceived as interfering in internal business and personnel matters of private organizations and run counter to how the program has functioned for the past 80 years.

There are practical considerations to consider – especially for agencies involved in manufacturing products. These agencies are required to make significant capital investments in machinery and re-competing contracts and shifting work is a complex and costly process.

5. The AbilityOne process currently requires NPAs/CNAs to first find a government sponsor and then negotiate an acceptable price with a warranted contracting officer. This negotiated price is then reviewed/approved or rejected by the Commission.

# Recommendation to “prohibit use of the program fee for lobbying expenses”

- A May 2013 report from the Government Accountability Office (GAO) – *Employing People with Blindness or Severe Disabilities: Enhanced Oversight of the AbilityOne Program Needed* (GAO-13-457) included language stating unequivocally that NIB does not receive appropriated dollars and therefore is not prohibited from lobbying activities.
- We believe that it is vital for our elected representatives to hear directly from their constituents on matters involving disability employment policies.
- There is an ongoing falsehood perpetuated by detractors who do not support the work of the AbilityOne Program that the CNAs are utilizing appropriated dollars to engage in advocacy. This is false and misleading.
- The CNAs were established by the nonprofit agencies to serve as their representative. This includes representing the agencies and their collective mission on Capitol Hill.

## Recommendation to “prohibit use of the program fee for lobbying expenses” continued

- This recommendation also raises First Amendment concerns since these are private organizations seeking to petition elected officials in Congress.
- NIB expends a very modest percentage of its \$30 million annual budget on advocacy activities, and this amount is limited by IRS regulations since NIB is a 501 (c)(3) nonprofit organization.
- With very few exceptions, we advocate on program-wide issues impacting employment for people who are blind and spend the bulk of our time educating Members of Congress and their staffs and debunking myths and misperceptions about the work of our associated NPAs.

# **NIB's Opportunity Assignment Process overview to the 898 Subcommittee Six: Acquisition and Procurement**

NIB and NAEPPB  
November 2018



# NIB's Board Approved Assignment Process\*

The assignment process follows four phases:

- Opportunity Identification
- Opportunity Assessment
- Assignment Process
- Appeals Process

The assignment of an opportunity occurs prior to development of the opportunity. Development includes but not limited to the assessment of impact on industry, Federal Prison Industries waiver request (products only), price recommendation, estimated blind labor hours, and federal agency sponsorship.

# Opportunity Identification

- Non Profit Agency (NPA) Identified Opportunities:  
Assigned to requesting NPA unless the assignment will result in impact to NPA(s) producing or performing a similar project.
- NIB Identified Opportunities:  
Follows NIB's Assignment procedures highlighted in the subsequent slides

The Assignment Process follows the procedures outlined in U.S. AbilityOne Commission Policy 51.301 Selection of Nonprofit agencies for project assignment and order allocation and NIB Board Policy 6.1 Assignment

# Assignment to Addition Success Rate

- NPA Identified Opportunities: On average\* 1 out of every 13 opportunities will be developed and added to the PL.  
Main reasons for attrition:
  - Lack of Sponsor
  - Lack of commercial partner or supplier
  - Price
  - Item currently under a long term contract
- NIB Identified Opportunities: On average 1 out of every 5 opportunities will be developed and added to the PL.  
Main reasons for attrition:
  - Price
  - Lack of commercial partner or supplier

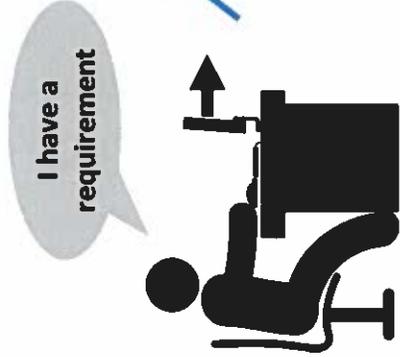
\* Average 2017 and 2018 additions results

# Opportunity Assessment

- Both NPA and NIB Identified opportunities are evaluated on the below criteria:
  - Assessment of blind labor potential
  - Conflict to existing product/service(Essentially The Same(ETS), line extension, replacement)
    - Confirm product/service is not on procurement list (PL)
    - Confirm product/service is not already assigned
    - Evaluate if product/service is line extension or replacement
    - Evaluate if product/service will adversely impact current sales of an NPA
    - Customer requirements including time to market and geographical location
  - Other considerations for NIB Identified opportunities include
    - Agency in need, small, or emerging
    - Manufacturing and other capacity management
    - Past performance
    - Financial Health of the NPA
    - Qualifications: technical, managerial, personnel

# Assignment Process when NIB Identified

## Product, Service, or BSC

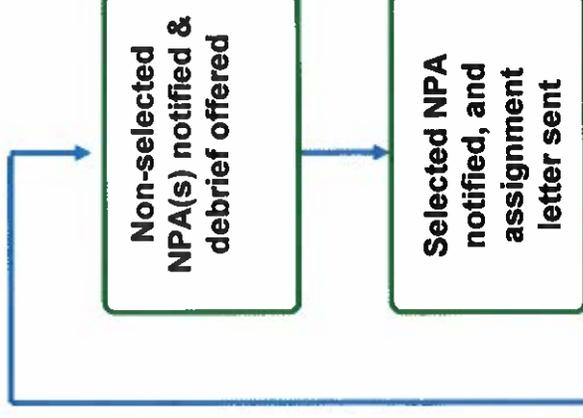


Opportunity Submitted to NIB:  
Government customer has a product/service/BSC opportunity

## Assignment Evaluation



## Communication



# Assignment Process (1 of 2)

- RFI / RFP :
  - Advertised in NIB This Week
  - Detailed response instructions
  - Response deadline
  - Special considerations, if applicable
- Source Selection Board (SSB)
  - Members: Subject matter experts, business development managers, operations support
  - Evaluation training provided to all

# Assignment Process (2 of 2)

- **SSB Evaluation Process:**
  - Evaluation factors & weights vary and are clearly defined
  - Proposals are evaluated against the requirement
    - SSB members score independently
    - Scores consolidated into a “scoring matrix”
  - Recommendation:
    - Takes into account any special considerations identified at the beginning of the process
    - Final review of the process and recommendation for procedural compliance is the Vice President of Operations
  - Award
    - All respondents, selected and non-selected, notified via phone and official correspondence
    - Debriefs provided upon request
    - Final award published in NIB This Week

# Appeals Process

- Assignment Decision Appeals:
  - Assignment decisions may be appealed within five (5) days of the NPA debriefing
  - Appeals begin with the line of business director, and can be elevated in the following order:
    - Senior Director, Products and Services
    - Vice President, Operations
    - President & CEO
    - NIB Board of Directors
    - AbilityOne Commission
- To date, NIB has received **two formal** appeals. One in 2013 when NIB issued 190 assignments and one in 2018 when NIB issued 195 assignments. Both were reviewed and did not change the decision. Final awards was upheld.
- NPAs always have the right to take concerns to the AbilityOne Commission.

# Process Example: NIB This Week Announcement



## OPPORTUNITIES AND ASSIGNMENTS

### OPPORTUNITIES

[AMENDED JanSan Opportunity: EPA Certified Product Manufacturing, Assembly, and Kitting](#)  
Responses due May 3, 2018

### ASSIGNMENTS

[Services Assignment: Cincinnati Association for the Blind and Visually Impaired Receives Assignment for USMC Quantico](#)

### Delay in Processing Federal Assignment Requests

Quan Leysath, Manager, Product Development Support, NIB  
703-310-0458 or [gleysath@nib.org](mailto:gleysath@nib.org)

Due to a number of factors, NIB is experiencing a delay in processing requests for federal assignments. Every effort is being made to eliminate this backlog. If you have any questions or concerns, please reach out to Quan Leysath. We appreciate your patience and support as we work through this matter.

## Meet the 2018 Employees of the Year!

Unable to attend the 2018 NIB/NAEPB National Symposium? Click on the image below to meet the Employee of the Year nominees in this special video presented at the Awards Banquet.

# Process Example: SSB Membership Example

- Shawn Spengler – Director of Products, NICHE & MRO
- Gary Colello – Director, Customer Logistics Support
- Senetra Burgess – Program Manager, Teleservices

# Process Example: Evaluation Decision Matrix

RFI #: RFI NIBID EPA Certified Warewashing Products

Agency Code	Reviewer 1 Score	Reviewer 2 Score	Reviewer 3 Score	Reviewer Score	Total Score NOTE: Re-Sort Descending Order	Average Score	SSB Overall Comments (Verify good comments in individual Reviewer scoring sheets)
NYR	3.8	3.4	3.4	3.4	10.6	3.5	
NCG	3.4	3.2	3.2	3.2	9.8	3.3	
MDB	3.2	2.8	3	3	9	3	

# Process Example: Non-select letter example



1310 Braddock Place  
Alexandria, VA 22314-1691  
703-310-0500  
www.nib.org

August 15, 2018

Mr. Joshua Gould  
President and Chief Executive Officer  
Industries for the Blind, Inc.  
920 West Gate City Blvd.  
Greensboro, NC 27403

RE: Notice to Unsuccessful Offeror to RFI NIBID- EPA Certified Waxeshining Products

Dear Joshua,

This notice is to inform you that your response to the RFI NIBID- EPA Certified Waxeshining Products was not selected for assignment. Four (4) agencies submitted responses to the RFI and one agency was selected to further develop the opportunity. The selected nonprofit will be published in NIB *This Week* on August 16, 2018.

Based on overall evaluation, the award to the assigned agency has been determined to represent the best value to the AbilityOne Program and the customer.

If you would like to request a debrief regarding your proposal or have any additional questions, please contact me at 703-310-0247 or [galbreton@nib.org](mailto:galbreton@nib.org) to set up a convenient time for us to discuss your proposal.

Regards,

Amanda Alderson  
Director, Products, Office and Jan/San



# Special Considerations

- NIB may restrict the pool of NPAs when advertising an opportunity:
  - To maximize the significant capital investment
    - Textile and Apparel Group
    - Writing Instruments Group
    - Contract Management Support (CMS) Contract Close-outs
    - Call Center Group
  - Smaller opportunities, more suited for start-ups, may be reserved for small or emerging NPAs
  - Short suspense to meet customer's need: May be reserved for those with current performance

December 20, 2018

Mr. Kim Herrington  
Acting Principal Director  
Defense Pricing and Contracting  
Under Secretary of Defense for  
Acquisition & Sustainment  
3010 Defense Pentagon  
Washington, DC 20301-3010

**Re: Section 898 Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity**

Dear Mr. Herrington:

On behalf of the nearly 450 SourceAmerica nonprofit agencies (NPAs) employing individuals with significant disabilities in the AbilityOne<sup>®</sup> Program, SourceAmerica<sup>®</sup> commends the work of the Section 898 Panel on the Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity (the Panel) for their commitment to strengthen the AbilityOne Program related to Department of Defense (DoD) contracts.

SourceAmerica is an AbilityOne Authorized Enterprise designated by the U.S. AbilityOne Commission<sup>®</sup> (the Commission) in accordance with 41 U.S.C. Chapter 85. SourceAmerica does not represent the Commission, an independent Federal agency. SourceAmerica NPAs provide training and employment opportunities for more than 95,000 people with significant disabilities, including nearly 40,000 individuals with significant disabilities through the AbilityOne Program.

SourceAmerica views our work with the Panel and the Commission among the most important initiatives we have undertaken. The outcomes of the Panel can, and likely will, reshape how the AbilityOne Program and NPAs do business, and more importantly, what employment opportunities will exist in the future for the people we serve. Our partnership with DoD and the Commission will ensure broad perspectives including those of our NPAs are considered as the Panel moves ahead with implementation of the recommendations.

In November, SourceAmerica and the National Council of SourceAmerica Employers partnered with the Commission in the collection of feedback from our NPA community. This feedback not only highlighted the activities underway that support the recommendations but also identified several emerging themes including: 1) support for a DoD contracting goal, 2) enhancement of the NPA community's role in the day-to-day education of acquisition personnel and, the more structured Defense Acquisition University training as prescribed in Section 898 of the Fiscal Year 2017 National Defense Authorization Act and required by the Office of the Under

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Secretary of Defense September 7, 2018, memorandum Contracting with the AbilityOne Program; and the November 1, 2017, memorandum Required AbilityOne Program Training for the Department of Defense Contracting and Purchasing Acquisition Career Fields, 3) veterans employment through the AbilityOne Program, and 4) a desire to amend the Javits-Wagner-O'Day Act, specifically the definition of "severely disabled" and the direct labor hour ratio requirements.

We welcome the opportunity to meet with you at your convenience to brief you on SourceAmerica and further discuss these themes as well as explore how SourceAmerica can assist the Panel in its work. If you have any questions or need any additional information, please let me know. I can be reached at (571) 226-4554 or [skrotonsky@sourceamerica.org](mailto:skrotonsky@sourceamerica.org). In the interim, I will be contacting your office to find a convenient time for a meeting.

I look forward to continuing to work with the Panel, the Department of Defense and the U.S. AbilityOne Commission to advance the Panel's recommendations to achieve our shared goal of greater employment for people with disabilities, including veterans with disabilities.

Sincerely,



Steven E. Krotonsky  
Chief Operating Officer

Cc: Mr. James P. Woolsey, President  
Defense Acquisition University

Ms. Tina Ballard, Executive Director  
U.S. AbilityOne Commission

February 13, 2019

Mr. Kim Herrington  
Acting Principal Director  
Defense Pricing and Contracting  
Under Secretary of Defense for  
Acquisition & Sustainment  
3010 Defense Pentagon  
Washington, DC 20301-3010

Dear Mr. Herrington:

Thank you for the opportunity to address the Section 898 Panel on the Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity (Panel) today. I am hopeful that we met your expectation in providing more detail regarding SourceAmerica/NCSE perspectives and feedback on priority actionable recommendations. I also hope that our leave behind document detailing our priority items and assessment of timeframe for implementation was useful.

It was difficult to judge the Panel's reaction to our presentation and leave behind so I would be very interested in hearing any feedback that you could provide related to the subsequent discussion. We want to be helpful and engaged as the Panel moves toward implementation so any feedback you can provide would be greatly appreciated. In addition, we were very genuine in our offer to work with individual subcommittees as you, and they, believe to be appropriate so please do not hesitate to let me know how we might lend our expertise toward the Panel's success.

As always, please let me know if there is anything more that we can offer. If you have additional questions or if we can provide support, please do not hesitate to contact me at 571-226-4554 or [skrotonsky@sourceamerica.org](mailto:skrotonsky@sourceamerica.org) or John Kelly at [jkelly@sourceamerica.org](mailto:jkelly@sourceamerica.org) or 571-226-4691.

Thank you once again for your continued support to our warfighters, and to the individuals with disabilities that support them every day through the work they do with AbilityOne and DoD.

Sincerely,



Steven E. Krotonsky  
Chief Operating Officer  
SourceAmerica

Cc: Ms. Tina Ballard, Executive Director  
U.S. AbilityOne Commission

MAR 18 RECD



March 13, 2019

Mr. Kim Herrington  
Acting Principal Director, Defense Pricing and Contracting  
3060 Defense Pentagon, Room 3B938  
Washington, DC 20301-3060

Re: Response to Section 898 Panel Recommendations

Mr. Herrington:

Thank you for your expressed openness to hearing feedback regarding the work of the Section 898 Panel. We appreciate the significant time commitment involved with chairing this committee, especially in light of your other continued responsibilities.

We represent Louisiana Association for the Blind (L.A.B.) and Lighthouse Louisiana, Louisiana's two oldest organizations for people who are blind and visually impaired with a combined 194 years of service. Together our nonprofit agencies (NPAs) employ 133 people who are blind or have other significant disabilities under the AbilityOne® Program through National Industries for the Blind (NIB). Our organizations supply the government with high-demand commodities including copy paper, single-fold paper towels, paper cups and a variety of services including a call center for the VA, braille of IRS documents, and base supply stores.

We are writing to you today to offer support for the work of the panel including support for many specific recommendations, to seek a better understanding regarding some recommendations and to tender a sincere offer to provide input from the nonprofit association perspective.

**Support**

We believe that the panel has made many positive recommendations that will further the impact of the AbilityOne Program for people with disabilities and uphold the continuous goal of the elimination of fraud, waste, and abuse. We want to applaud the panel and subcommittees on multiple recommendations including:

1. The lowering of the direct labor ratio on a case by case basis particularly on projects that to require an extended phase in period or a permanent lower ratio to be successful.
2. We also support eliminating the direct labor ratio in favor of a ratio that takes into account people who are blind or who have other disabilities throughout an agency. We would want to ensure that a blanket lowering of the direct labor ratio across the board would not eliminate opportunities for people with disabilities or put people with disabilities out of work.

3. The shortening of the comment period to 30 days from 60 to streamline the addition process. This abbreviated period will increase efficiency and reduce wait time for getting products added to the procurement list.
4. Recommending updated FAR and CFR language and creating better defined business practices.
5. Recommendations that better serve our veteran community, especially veterans with disabilities and service disabled veterans.
6. Training recommendations including 508 and DAU classroom updates to better train contracting officials regarding program compliance.

### **Questions/Concerns**

In reviewing the panel recommendations, we have some specific areas in which we request more clarity.

1. Subcommittee Six: Acquisition and Procurement has made recommendations for re-competition of contracts for performance. While we understand the need to ensure quality services and products are being provided under the program, we would like clarification on how the decision would be made to reassign contracts and what protections would exist for an NPAs investment. Unaddressed in the recommendations are the significant capital investments many NPAs make. We would emphasize the importance of written criteria/standards as well as a process for consideration of re-competition that allows for an extended remediation “get well” period for the performing NPA.

2. Subcommittee Two: Eliminate Waste, Fraud, and Abuse made the recommendation to prohibit use of the program fee for lobbying expenses. NIB currently plays an important role in helping NPAs across the country consolidate the AbilityOne Program message and present that message in a united voice to legislators. NIB and Source America play an important role in advocating for changes that improve the lives of people with disabilities.

3. Subcommittee Six: Acquisition and Procurement recommendation 2a addresses designation and allocation of work, but fails to take into consideration that new items and services are often developed by individual NPAs and not the CNAs (NIB/Source America) so clarity around how “NPA identified” projects would be addressed in assignment is necessary. Would this recommendation mean NPAs under any CNA could apply for business? How does this impact the current assignment and NPA product development process?

4. Subcommittee Seven: Business Process Re-engineering, addresses policy recommendations, including FAR modification recommendations. We recommend FAR clause 52.208-9, “Contractor Use of Mandatory Sources of Supply and Services,” should be updated and amended. The current clause is vague; there is not a clearly defined business practice for implementation of the clause, leading to confusion among contract officials and service contract holders including Prime vendors and 3rd party contractors.

### **Offer to provide ongoing NPA perspective**

We respect the work of the 898 panel and its esteemed, diverse membership. We appreciate the wide range of agencies involved in drafting these recommendations and understand that leadership from National Industries for the Blind was invited to provide comments to the subcommittees as part of this process. We respectfully submit that the nonprofit agency perspective is valuable and may differ from the perspective of the central nonprofit agencies and would benefit the work of the panel. Lighthouse and LAB are available and eager to provide input to the panel or subcommittees as requested and appropriate.

Thank you for your work with the Section 898 panel. We appreciate your consideration of this letter and look forward to your leadership on the panel.

Sincerely,



Libby Murphy  
President & CEO  
Louisiana Association for the Blind



Renee Vidrine  
President  
Lighthouse Louisiana

CC:

✓ Tina Ballard, U.S. AbilityOne Commission  
Kevin Lynch, National Industries for the Blind  
Reinhard Mabry, National Association for Employment of People with Disabilities

May 2, 2019

Mr. Kim Herrington  
Acting Principal Director  
Defense Pricing and Contracting  
Under Secretary of Defense for  
Acquisition & Sustainment  
3010 Defense Pentagon  
Washington DC 20301-3010

Dear Mr. Herrington:

Thank you for the opportunity to address the Section 898 Panel on the Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity (Panel) today. I am hopeful that we met your expectations in providing more detail on the actions and themes previously presented to the DoD AbilityOne Panel by Mr. Krotonsky during the February 13, 2019, meeting relative to the nonprofit agency community.

As we embark down the path of AbilityOne Program modernization and reform, let us collectively ensure that our work endeavors clearly align with the technology advancements of the future. We look forward to continuing our collaborative efforts to strengthen the AbilityOne Program and increase employment opportunities for people with disabilities and veterans with disabilities.

As always, please let me know if there is anything more that we can offer. In addition, please know that you and every member of the panel has a standing offer to visit one of our nonprofits just as member of subcommittee 4 did this past week. If I can set up such a visit, if you have additional questions, or if we can provide support, please do not hesitate to contact me at [ccarr@achievehs.org](mailto:ccarr@achievehs.org).

Thank you again for your continued support to our warfighters and to the individuals with disabilities that support them every day through the work they do with AbilityOne and DoD.

Sincerely,



Carol Carr  
President

Enc: NCSE Panel Presentation with Notes  
Section 898 Panel Crosswalk  
Employee Profile: Neil  
Employee Profile: Barbara

Cc: Ms. Tina Ballard, Executive Director, U.S. AbilityOne Commission  
Mr. Steven E. Krotonsky, Chief Operating Officer, SourceAmerica  
Ms. Susan Pollack, Senior Procurement Analyst, Department of Defense



## **Section 898 Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity**

**May 2, 2019**

- Good morning
- On behalf of the National Council of SourceAmerica Employers Executive Committee, the more than 750 nonprofit agencies in our network and the more than 40,000 individuals that are employed through the AbilityOne Program, I appreciate the opportunity to present to you today.
- In his presentation on February 13<sup>th</sup>, SourceAmerica Chief Operating Officer Steve Krotonsky highlighted several themes and actions that support the Section 898 Panel's recommendations.
- Today, I will expand on those action plans for implementation from the perspective of the NPA community.
- At this time, I am pleased to introduce one of my colleagues and member of the NCSE Executive Committee who has joined me today, Mr. Reggie Hughes.
  - o He is a retired Army officer with over 25 years of food service and logistics experience. Reggie was awarded the Bronze Star in 2003 for his service in Iraq.

## NCSE Role



- We represent the collective voice of the SourceAmerica® nonprofit agency community employers and the people with disabilities they employ by:
  - Serving as a trusted advisor to SourceAmerica and the U.S. AbilityOne Commission® on behalf of the community of nonprofit employers
  - Facilitating a network among SourceAmerica's nonprofit employers that fosters collaborative sharing of effective and innovative practices
  - Providing thought leadership – to vet key issues, provoke meaningful discussion, issue calls to action and write position papers – in support of our network and of SourceAmerica's efforts to create fulfilling employment opportunities for people with disabilities



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- The NCSE represents the network of AbilityOne-producing nonprofit agencies and affiliate nonprofits of SourceAmerica.
- In an advisory role, we work in tandem with SourceAmerica and the U.S. AbilityOne Commission.

# NCSE Strategic Focus



**Purpose** ~ To empower a workforce of universal inclusion, realized potential and fulfillment.

**Vision** ~ Employment rate of people with disabilities mirrors that of the entire workforce/general population.

**Values**

<b>Integrity</b> Maintaining the highest quality standards of compliance and stewardship with appropriate oversight, accountability and governance through modeling best practices	<b>Respect</b> Honoring the dreams, wishes and desires of all individuals while embracing diversity	<b>Choice</b> Ensuring maximum exposure to resources that create outcomes conducive to the individual's wants, needs, preferences and informed decision-making	<b>Equality</b> Nurturing an environment that promotes capability, encourages upward mobility, is free from prejudice and bias, and advocates inclusion in all aspects of life by respecting all abilities	<b>Fulfillment</b> Creating opportunities that empower individuals to realize their greatest potential and lead lives rich in meaning and fulfillment of purpose
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**Our Strategic Goals and Initiatives**

Workforce Development	Job Creation	Fulfillment and Public Awareness	Public Policy/ Self-Advocacy
Create systems and opportunities to facilitate upward mobility, further develop employment training and empower individuals to direct their lives with meaning and purpose.	Create systems to increase employment opportunities, promote growth and fulfillment, and address the current and future capabilities and capacity of the network.	Establish a system to measure fulfillment and methods of communicating results.	Through self-determination, people with disabilities are empowered to direct their lives by promoting public policy that fosters choice and provides employment options.
<ol style="list-style-type: none"> <li>1. Identify existing employment training resources within the NCSE and incorporate them into a resource library utilizing SourceAmerica's training platform.</li> <li>2. Establish a Peer Mentoring Program to train employees without disabilities as natural supports within the workforce.</li> <li>3. Launch a campaign to promote awareness and the adoption of adaptive and assistive</li> </ol>	<ol style="list-style-type: none"> <li>1. Create a cross-functional team to collaborate with SourceAmerica business development to identify current and future capabilities of the workforce and the capacity of the NCSE network.</li> <li>2. Develop a plan with SourceAmerica leadership to promote expansion and development of new jobs arising from emerging lines of business, and opportunities for job advancement on all</li> </ol>	<ol style="list-style-type: none"> <li>1. Support SourceAmerica in finding and working with a data partner to develop a measurement tool for fulfillment of people with significant disabilities in the workplace.</li> <li>2. Pilot a measurement toolkit to gather data on fulfillment of work for people with significant disabilities.</li> <li>3. Work with SourceAmerica and other partners to find the communication</li> </ol>	<ol style="list-style-type: none"> <li>1. Encourage, support and foster grassroots participation, dialogue and network engagement to affect changes in conjunction with SourceAmerica initiatives.</li> <li>2. Create Self-Advocate participation/tracks in NCSE CEO/Senior Leadership Forums and other forums.</li> <li>3. Develop program designed to mentor agencies in developing self-advocacy programs.</li> </ol>



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- This slide includes a snapshot of the NCSE Strategic Plan whose key goals focus on:
  1. Workforce Development
  2. Job Creation
  3. Fulfillment and Public Awareness
  4. Public Policy and Self-Advocacy
- All are in close alignment with SourceAmerica and the U.S. AbilityOne Commission.

## NCSE Approach to the 898 Panel Recommendations



- Launched collaborative effort in October 2018
  - Analysis and prioritization of recommendations
  - Discussion at NCSE CEO/Senior Leadership Forums
  - Formulation of implementation strategies (ongoing)
- Partnered with the U.S. AbilityOne Commission to establish CEO Roundtable in February 2019
  - Initially focusing on five key initiatives:
    1. Direct Labor Ratio
    2. Definition of Disability
    3. Pricing
    4. Competition
    5. Section 14(c) of the Fair Labor Standards Act



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- Last Fall, the NCSE launched a collaborative effort with SourceAmerica and the U.S. AbilityOne Commission to review and prioritize the 898 Panel's recommendations.
- Resulting from the collaboration a survey, was distributed to the NPA community that captured the top two priority recommendations for each of the seven subcommittees. These were further vetted at subsequent NCSE CEO/Senior leadership forums.
- In February 2019, the U.S. AbilityOne Commission convened a joint effort with SourceAmerica and the NCSE to establish a CEO Roundtable to engage the nonprofit community more directly on implementation strategies for the Panel's recommendations.
  - This process builds on past collaborative efforts conducted from 2011 to 2017, including AbilityOne Forums and other Working Groups.
  - The CEO Roundtable is focusing on five key areas: 1) Direct Labor Ratio, 2) Definition of Disability, 3) Pricing, 4) Competition and 5) Section 14(c) of the Fair Labor Standards Act.
- As some of you may be aware, on March 15<sup>th</sup> the SourceAmerica Board of Directors announced a new position on the use of Section 14(c) on AbilityOne contracts.
- The NCSE is supporting SourceAmerica on a transition plan for nonprofit agencies that utilize 14(c) on AbilityOne contracts. The NPA community wants to ensure that we maintain the dignity that work brings to those individuals we serve with the most significant disabilities.
- This plan will be implemented in conjunction with the programmatic recommendations of the Section 898 Panel.

## NCSE Perspective on 898 Panel Recommendations



- Implementation of priority recommendations that focus on:
  - Accountability
  - Program Effectiveness (Affordability, Customer Service, Transparency)
  - Employment (Program Impact)
- Building on previous work and actions already underway by SourceAmerica and within the NPA community



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- Today, I will build on the information SourceAmerica presented in February and share the NPA community's approach to the actionable recommendations in each of the Panel Subcommittee areas.
- I'll elaborate on key strategies for implementation, including feasibility, risks, potential resource constraints and/or adverse impacts to the NPA community.
- Our focus is on strategies which aim to strengthen accountability, program effectiveness and employment opportunities for the people we serve.

## Inspector General – Subcommittee 1



- Fully implement 2017 and 2018 Defense Policy Memorandums regarding utilization and training for the AbilityOne Program
- Promote and expand Defense Acquisition University training through multiple channels



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- Related to Subcommittee 1, we were pleased to see the two memorandums issued in 2017 and 2018 by the Department of Defense encouraging the use of the AbilityOne Program and also requiring training for the contracting workforce on the AbilityOne Program through the Defense Acquisition University Continuous Learning Module 23.
  - Previously, C-L-M 23 and CON 90 courses have provided training to the contracting workforce on the AbilityOne Program.
  - We understand CON 90 has been replaced by CON 91 and at this time does not include AbilityOne content.
  - We believe that up-to-date AbilityOne courses that are readily available and widely utilized will improve the Program. Additionally if DoD re-issues guidance, including training guidance it will strengthen the use of the Program.
- It is especially important to ensure an understanding and awareness of the AbilityOne Program in light of turnover in the contracting workforce.
- We recognize the importance of DAU training in tandem with the education directly provided to contracting officers by the nonprofit agencies who maintain contracts under the AbilityOne Program.
- In our feedback sessions, the NPA community suggested the development of new training tools and platforms such as guidebooks, blogs, conferences and visits to AbilityOne project sites. This aligns with recommendations from the Office of Federal Procurement Policy.

## Eliminate Waste, Fraud and Abuse – Subcommittee 2



- Increase transparency of SourceAmerica's NPA Recommendation Process
- Improve and strengthen pricing guidance and pricing tools



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- Related to Subcommittee 2, the NPA community supports continuous enhancements to the NPA recommendation process which I will address in more detail under Subcommittee 6, Acquisition and Procurement.
- A significant amount of work has been ongoing with regards to pricing by SourceAmerica and the NPA community and, it is one of the focus areas of the CEO Roundtable.
- The CEO Roundtable is addressing pricing and further developing recommendations in the areas of: (1) consistency (2) value (3) accuracy and (4) transparency.
- SourceAmerica's operations team has been working with the NPA community to develop and test a new pricing tool that will be available by year-end 2019.
  - The tool will provide a standard methodology for NPAs to follow and greater consistency for our federal customers.
- The NPA community and SourceAmerica are also vetting the development of a centralized database on pricing that would provide a higher level of data performance detail.
  - While this database would create greater transparency and contribute to increased efficiency and effectiveness of the Program, one area that we need to address is the area of proprietary information and we are looking at ways to protect the integrity of the system data.
- In 2018, SourceAmerica worked with a third party to conduct should-cost analyses to validate pricing on two larger contracts. We see value in this approach under limited circumstances in the future, as it is costly.

## Employment Initiatives – Subcommittee 3



- Strengthen the Individual Eligibility Evaluation Form (IEE) process through training and certification
- Consider new process to allow outside submissions of the IEE (by the VA, states, or others) but do not require NPAs to outsource the IEE
  - Recognize NPA role in defining career goals and tracking employment outcomes



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- In addition to Subcommittee 2, Subcommittee 3 as well as Subcommittee 5 made recommendations that relate to the Individual Eligibility Evaluation Form, or the IEE, which has been in place since 2013.
- The NPA community supports the following actions:
  - (1) new requirements for NPA training and certification; and
  - (2) potential changes to the form and/or process to allow outside submissions of the IEE by other government entities such as VA and State VR.
- The NPA community does not support outsourcing or contracting for eligibility assessments as documentation of the disability is completed by a licensed professional.
- Given the complexity of this topic and the strict requirements of the existing law, the Commission staff launched an IEE Collaborative Working Group to advise the 898 Panel Subcommittees.
- SourceAmerica and NPA staff presented at the Panel's offsite on April 17 regarding the regulatory requirements of the IEE form, current training provided by SourceAmerica, and feasibility of outsourcing the form.
- Many NPAs maintain CARF-accreditation and participate in other voluntary accreditations, i.e. JACHO, ISO certification as well as Malcom Baldrige participation. This results in additional oversight above and beyond the AbilityOne Program.
- Additionally, NPAs submit Annual Representations and Certifications attesting that employee data submitted is accurate, complete, and current
- NPAs play an important role in defining career goals, tracking employment outcomes, reporting on upward mobility and job placements outside the AbilityOne Program. They are subject to additional federal and state reporting requirements and employment services are frequently audited by these entities.

**[\$20 million = \$500 per assessment x 44,000 employees with significant disabilities in the Program)**

## Laws and Regulations – Subcommittee 4



- **Revise the definition of “qualified nonprofit agency” by reducing 75 percent Direct Labor Ratio**
  - SourceAmerica’s Ratio Demonstration Project
  - Allowing indirect labor positions to be counted in ratio calculation
- **Revise the definition of “other severely disabled”**
  - Amend the statement: “prevents the individual from currently engaging in normal competitive employment”
  - Relationship to IEE and defined eligibility for veterans



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- Related to Subcommittee 4, there has been extensive dialog on amending the statutory definition of qualified nonprofit agency by reducing the 75 percent direct labor ratio. There is support for exploring a lower ratio and we look forward to continued analysis and dialog on this topic.
- SourceAmerica met with Subcommittee 4 in March, and just two days ago members of the Subcommittee visited with one of the NPAs in Virginia, VersAbility.
  - We appreciate the time Lindsey, Amanda, Tom and Timi took to make this visit. On behalf of the NPA community, I invite all Members to visit an AbilityOne project site – you have a standing invitation.
- As reported previously by SourceAmerica, work is underway with Mathematica in collaboration with the Commission to conduct new research and an experimental Demonstration Project, specifically to test reduced ratio, or ratios, on comparable AbilityOne projects.
- The central motivating question for the Ratio Demonstration Project is whether reducing the ratio requirement can increase jobs in integrated work settings. The Ratio Demonstration Project has two distinct phases:
  - Phase 1 consists of collecting data to determine the experimental design of the ratio demonstration. (completion expected summer 2019)
  - Phase 2 is conducting and evaluating the results of the ratio demonstration. (completion expected summer 2020)
- The ratio may have an indirect correlation to any of the decisions we make about competition. Therefore, as we further address competition, ratio may have an impact.
- Additionally, there is strong agreement within the NPA community that the definition of “other severely disabled” should be amended.
- As recommended by this Subcommittee, revising the statement “prevents the individual from currently engaging in normal competitive employment” will strengthen employment opportunities through the Program for veterans and other individuals with disabilities. It will also prompt changes to eligibility including enhancements to the “employability” section of the IEE form, facilitating eligibility for veterans in the Program.
- There are ongoing discussions and activities on proposed changes to ratio and program definitions including developing an analysis on potential impacts to the NPAs and the people we serve that are actively being addressed during the CEO Roundtables.

## Veterans Eligibility – Subcommittee 5



- Revise the definition of “other severely disabled”
- Strengthen veteran employment at NPAs
  - NCSE Veterans Committee
  - Veterans Survey Results



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- Since definitions and eligibility have already been covered on previous slides, I'd like to expand on the NPA community's efforts to increase employment for veterans.
- NPAs in the SourceAmerica network employ nearly 3,000 veterans with disabilities on their AbilityOne contracts. Across the country, veterans are performing a wide range of critical services for the Department of Defense and other federal agencies.
- To enhance these efforts, the NCSE Veterans Committee was formed in 2018 with ongoing support of SourceAmerica and the AbilityOne Commission.
- The first goal of the Committee was to develop a survey that was distributed to the NPA community at year-end 2018.
  - The survey results revealed the network was serving more veterans than previously reported.
  - The data provided key insights on additional services, other than employment.
  - It will also guide SourceAmerica and the NPAs in continuing efforts to better serve this population.
- SourceAmerica has staff dedicated to veterans initiatives and will be hosting a session on veteran hiring for NPAs during its upcoming national conference.
- A robust veteran resource page has been developed for the NPA extranet site for the NCSE Veterans Committee to share material and information with the NPA community.
- Lastly, we appreciate the time Will Streitberger took this past February to present at the NCSE CEO/Senior Leadership Forum during the Veterans session. The NCSE will continue to host veteran session at upcoming forums.

## Acquisition and Procurement – Subcommittee 6



- Refine SourceAmerica's process for designation and allocation of work (NPA Recommendation Process)
  - Update Commission policy and best practices to provide sufficient oversight and transparency
  - Create incentives for inclusion and mentoring of smaller nonprofits and veteran employment opportunities on DoD contracts
- Establish policy and business rules that include competition and re-competition in the AbilityOne Program
  - Competition Pilot



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- SourceAmerica's process for designation and allocation of work is governed by Commission Policy and the CNA cooperative agreement. Many of the recommendations by Subcommittee 6 reflect current practice or, are already being implemented by SourceAmerica in partnership with the Commission and the NPA community.
- SourceAmerica briefed Subcommittee 6 in March on the NPA Recommendation Process, and updates that are being made to current policies and procedures. We look forward to more collaborative action in this area to ensure greater transparency.
  - SourceAmerica has established an inter-departmental task force to examine strategies to create incentives for inclusion and mentoring smaller nonprofits and veteran employment on DoD contracts [during the Opportunity Notice process]. A survey of small nonprofits is in the field and will further inform this process.
  - The Commission is also engaging directly with small nonprofits on this topic through one-on-one meetings at SourceAmerica's upcoming national conference.
- We agree the option of limited competition will drive continual improvement, mitigate price escalation, discourage complacency in the Program and ultimately drive job creation. Beginning last summer, a significant amount of work has been done by the NPA community to evaluate this new approach for the Program.
- Through the work of the Efficiency and Effectiveness Committee and the CEO Roundtable, NPAs have offered the following recommendations to SourceAmerica and the Commission: (1) contracting officers should retain the option to keep high performing NPAs in place, (2) decisions to exercise the option to compete should be initiated at the discretion of the contracting officer, (3) federal agency notifications to compete should allow adequate time for the source selection process, and (4) options for competition should not apply to products and be limited to AbilityOne services contracts above \$10 million.
- The CEO Roundtable is drilling down even further to inform the process moving forward and has provided recommendations to the Commission staff for a new source selection process.
- As input has been offered on parameters for competition in the Program, the Commission has launched a competition pilot for a project at Ft. Bliss

## Business Process Re-engineering – Subcommittee 7



- Establish a DoD contracting goal and require the use of AbilityOne representatives (Policy)
- Modify the Procurement List timeline (Policy)
- Update the online Procurement List to reflect detailed information and improve search functions to enable a more user-friendly interface (Technology)



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- As it relates to Subcommittee 7, the NPA community strongly supports establishment of a DoD contracting goal to increase employment through the AbilityOne Program.
- We were pleased to see this recommendation by the Subcommittee and agree that the Air Force model offers a starting point for a DoD-wide goal. Requiring the use of AbilityOne representatives would help to ensure compliance with the Procurement List and maximize growth opportunities in the future.
- The Commission, SourceAmerica, and the NPA community continue to collaborate on new lines of business, such as IT, for individuals who want to pursue more technical fields of expertise.
  - An example of this kind of initiative is a recent IT Pilot Project which was deemed a success by the Commission.
    - The project demonstrated that people with significant disabilities can, in significant numbers, work in IT fields such as software engineering, quality assurance, and data and business analysis. The pilot incorporated the following key components: 1) employment of disabled veterans, 2) a contract ratio of 52 percent, 3) an accelerated IT training program, and 4) very substantial workplace accommodations.
  - A current opportunity is the National Archives and Records Administration (NARA) mandate. Supporting Federal agencies' compliance with this mandate would create up to 1,000 jobs and career opportunities for people with disabilities, including veterans.
- Currently SourceAmerica and the NPA community are working on training curricula to address vocational trades such as HVAC (or Heating, Ventilation and Air Conditioning) and Plumbing which will further enhance skills and provide additional employment opportunities while enhancing the ability of NPAs to pursue other lines of business.
- In our discussion forums, NPAs shared support for decreasing the Procurement List addition timeline and updating the online PL to make it easier for contracting agencies to use.

# Conclusion



## Section 898 Panel Cross-walk

This document shows the relationship between the many cross-cutting themes included in the First Annual Report to Congress issued by the Panel on Department of Defense and AbilityOne® Contracting Oversight, Accountability and Integrity (Panel). These themes were identified by the National Council of SourceAmerica Employers (NCSE) community and encompass the multiple recommendations made by the Panel's subcommittees. The "cross-walk" also includes short and long-term priority actions under each cross-cutting theme recommended by the NCSE community to inform the Panel's implementation strategies in their second annual report to Congress.

Cross-Cutting Theme	Inspector General Subcommittee 1	Eliminate Waste, Fraud and Abuse Subcommittee 2	Employment Initiatives Subcommittee 3	Lease and Regulations Subcommittee 4	Veterans Eligibility Subcommittee 5	Acquisition and Procurement Subcommittee 6	Business Process Re-Engineering Subcommittee 7	NCSE Recommendation Priority Implementation Strategy	NCSE Recommendation Priority Action for Implementation Long-Term
Direct Labor Ratio		✓	✓	✓	✓			SourceAmerica and the US AbilityOne Commission conduct direct labor ratio demonstration project.	Congress amends Joint Wagon-OTDy Act definition of "qualified nonprofit agency" to reduce the existing direct labor ratio.
Statutory Definitions				✓	✓			(1) SourceAmerica and the Commission conduct joint labor demonstration project and (2) With continued input from CNAs and NFAs, the Commission develops joint to test revised definition of "other severely disabled."	(1) Congress amends Joint Wagon-OTDy Act definition of "qualified nonprofit agency" to reduce the existing direct labor ratio and (2) Congress amends Joint Wagon-OTDy Act definition of "other severely disabled" to clarify reference to "normal competitive employment."
Individual Eligibility Evaluation (IEE)		✓	✓	✓	✓			(1) CNAs establish mandatory IEE training and certification procedures for NFAs and (2) With additional input from CNAs and NFAs, the Commission revises IEE form to allow outside submissions by the VA and other Federal/state government entities.	(1) Congress amends Joint Wagon-OTDy Act definition of "qualified nonprofit agency" to reduce the existing direct labor ratio and (2) Congress amends Joint Wagon-OTDy Act definition of "other severely disabled" to clarify reference to "normal competitive employment."
Veteran Employment			✓	✓	✓	✓		(1) SourceAmerica and NFAs continue coordinated effort with the Commission to enhance veterans' employment and (2) With additional input from CNAs and NFAs, the Commission revises IEE form to allow outside submissions by the VA and other Federal/state government entities.	Congress amends Joint Wagon-OTDy Act definition of "other severely disabled" to clarify reference to "normal competitive employment."
SourceAmerica's NPA Recommendation Process/Competition		✓				✓	✓	(1) SourceAmerica and the Commission continue efforts to increase transparency in the process and (2) SourceAmerica and the Commission conduct competition.	SourceAmerica and the Commission implements new policies and procedures for the NPA Recommendation Process and competition in the Program.
Pricing for AbilityOne Contracts		✓				✓	✓	CNAs and the Commission continue work to improve and streamline pricing guidance and tools.	CNAs and the Commission design and launch centralized pricing database for Federal contracting agencies.
Training for Federal Contracting Workforce	✓					✓	✓	DoD expands and fully implements DoD training requirements through multiple channels.	DoD training is continuously updated to reflect changes in policies and procedures implemented by DoD, the Commission and CNAs.
Training for NFAs/SourceAmerica			✓			✓	✓	(1) CNAs establish mandatory IEE training and certification procedures for NFAs and (2) SourceAmerica deploys updated to bring on changes to the NPA Recommendation Process.	CNAs continuously update training for NFAs to incorporate changes in law, regulation and/or the Commission policies and procedures.
Employment Growth		✓	✓	✓	✓	✓	✓	(1) SourceAmerica and NFAs continue implementation of employment growth strategies pursuant to the Commission Cooperative Agreement and (2) SourceAmerica deploys updated to bring on changes to the NPA Recommendation Process.	CNAs and NFAs work with the Commission and DoD AbilityOne representatives to achieve employment growth through implementation of a DoD contracting goal.

5/13/2018



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- In closing, we have developed a crosswalk that shows the relationship between several cross-cutting themes and the seven Panel Subcommittees.
- For each cross-cutting theme, we identified priority actions that are underway or can be accomplished in both short- and long-term.
- You will see from the matrix that the NPA community jointly with the Commission and SourceAmerica are taking action around implementation strategies that address over 50 percent of the Panel recommendations.
- We hope this will help to further inform you in the development of implementation strategies for the Panel's second annual report to Congress.
- As we embark down the path of AbilityOne Program modernization and reform, let's collectively ensure that the work endeavors clearly align with the technology advancements of the future.
- We appreciate the opportunity to be here today and look forward to continuing our collaborative efforts to strengthen the AbilityOne Program and increase employment opportunities for people with disabilities
- In addition to our cross-walk, we are providing you with two AbilityOne success stories, one of whom is a service-disabled veteran.

This document shows the relationship between the many cross-cutting themes included in the First Annual Report to Congress issued by the Panel on Department of Defense and AbilityOne® Contracting Oversight, Accountability and Integrity (Panel). These themes were identified by the National Council of SourceAmerica Employers (NCSE) community and encompass the multiple recommendations made by the Panel’s subcommittees. The “cross-walk” also includes short and long-term priority actions under each cross-cutting theme recommended by the NCSE community to inform the Panel’s implementation strategies in their second annual report to Congress.

Cross-Cutting Themes	Inspector General Subcommittee 1	Eliminate Waste, Fraud and Abuse Subcommittee 2	Employment Initiatives Subcommittee 3	Laws and Regulations Subcommittee 4	Veterans Eligibility Subcommittee 5	Acquisition and Procurement Subcommittee 6	Business Process Re-Engineering Subcommittee 7	NCSE Recommendations Priority Actions for Implementation (Already Underway/Short-term)	NCSE Recommendations Priority Actions for Implementation (Long-term)
Direct Labor Ratio		✓	✓	✓	✓			SourceAmerica® and the U.S. AbilityOne Commission® conduct direct labor ratio demonstration project.	Congress amends Javits-Wagner-O’Day Act definition of “qualified nonprofit agency” to reduce the existing direct labor ratio.
Statutory Definitions				✓	✓			(1) SourceAmerica and the Commission conduct direct labor demonstration project and (2) With continued input from CNAs and NPAs, the Commission develops pilot to test revised definition of “other severely disabled.”	(1) Congress amends Javits-Wagner-O’Day Act definition of “qualified nonprofit agency” to reduce the existing direct labor ratio and (2) Congress amends Javits-Wagner-O’Day Act definition of “other severely disabled” to clarify reference to “normal competitive employment.”
Individual Eligibility Evaluation (IEE)		✓	✓	✓	✓			(1) CNAs establish mandatory IEE training and certification procedures for NPAs and (2) With additional input from CNAs and NPAs, the Commission revises IEE form to allow outside submissions by the VA and other federal/state government entities.	(1) Congress amends Javits-Wagner-O’Day Act definition of “qualified nonprofit agency” to reduce the existing direct labor ratio and (2) Congress amends Javits-Wagner-O’Day Act definition of “other severely disabled” to clarify reference to “normal competitive employment.”
Veteran Employment			✓	✓	✓	✓		(1) SourceAmerica and NPAs continue coordinated effort with the Commission to enhance veteran employment and (2) With additional input from CNAs and NPAs, the Commission revises IEE form to allow outside submissions by the VA and other federal/state government entities.	Congress amends Javits-Wagner-O’Day Act definition of “other severely disabled” to clarify reference to “normal competitive employment.”
SourceAmerica’s NPA Recommendation Process/Competition		✓				✓	✓	(1) SourceAmerica and the Commission continue refinements to increase transparency in the process and (2) SourceAmerica and the Commission conduct competition pilot.	SourceAmerica and the Commission implement new policies and procedures for the NPA Recommendation Process and competition in the Program.
Pricing for AbilityOne Contracts		✓				✓	✓	CNAs and the Commission continue work to improve and strengthen pricing guidance and tools.	CNAs and the Commission design and launch centralized pricing database for federal contracting agencies.
Training for Federal Contracting Workforce	✓						✓	DoD expands and fully implements DAU training requirements through multiple channels.	DAU training is continuously updated to reflect changes in policies and procedures implemented by DoD, the Commission and CNAs.
Training for NPAs/ SourceAmerica			✓		✓	✓		(1) CNAs establish mandatory IEE training and certification procedures for NPAs and (2) SourceAmerica deploys updated training on changes to the NPA Recommendation Process.	CNAs continuously update training for NPAs to incorporate changes in law, regulation and/or the Commission’s policies and procedures.
Employment Growth	✓	✓	✓	✓	✓	✓	✓	(1) SourceAmerica and NPAs continue implementation of employment growth strategies pursuant to the Commission Cooperative Agreement and NCSE Strategic Plan and (2) DoD establishes contracting goal and requires use of AbilityOne representatives.	CNAs and NPAs work with the Commission and DoD AbilityOne representatives to achieve employment growth through implementation of a DoD contracting goal.



**Barbara** | VGS Inc., Cleveland, OH

## The AbilityOne Program Gave Barbara a Chance to Be Counted On, Rather Than Counted Out.

Barbara wouldn't tell you she has a disability; she would tell you she has a different way of life and a different way of doing things. Legally blind since birth, she knows from experience what it means to be counted out before you're given a chance.

When describing herself, Barbara says, "I've always wanted to work," and she associates working with independence and personal fulfillment. Eager to learn and incredibly driven, she taught herself how to sew. Over time, she took on multiple jobs for people – sewing everything from comforters to curtains to cheerleading uniforms.

But Barbara wanted more. She wanted to get off Social Security and welfare. More than anything, Barbara wanted fulfillment and consistency in her work rather than occasional sewing jobs.

Barbara's path to employment was riddled with closed doors and disappointment. She submitted application after application and interviewed with multiple temp agencies, all to no avail. Despite being Microsoft certified, employers were unwilling to accommodate her needs or acknowledge the skills she had to offer. Barbara explained it this way: "When most people see a person with a disability, they



see the disability. They don't see the person behind the disability.”

Refusing to give up, Barbara continued her fight to find a job. Her efforts eventually led her to Vocational Guidance Services (VGS), a nonprofit organization in her area that serves people with disabilities or other barriers to employment. It was at VGS that Barbara found employment through the AbilityOne® Program. She smiles broadly when she recalls the moment she heard, “Welcome aboard. You have the job!”

“That was the best day of my life,” Barbara says. “I got a job, a real job,” she told her mother over the phone. “Somebody finally gave me a chance!”

That was more than 15 years ago. Barbara is now an integral member of VGS’ power sewing team. She takes great pride in the fact that she not only has a job, but that it’s also a job that supports the United States Armed Forces. Barbara is part of the VGS team that makes trousers for women in the military through an AbilityOne contract, and there is nothing she loves more than seeing her hard work on display in a military parade. Helping sew these uniforms is Barbara’s way of giving back – to service members who give so much of themselves for our country, to the team members at VGS who gave her a chance and to

the federal program that made it all possible.

Barbara is enormously proud to have a job and to have her independence, and she’s incredibly grateful for the chance VGS gave her all those years ago. Because before VGS gave her that chance, Barbara was counted out by numerous potential employers who couldn’t see beyond her disability. Now, instead of being counted out, she’s counted on to help make slacks for our nation’s military.

*Overcoming Obstacles. Achieving Independence. Fulfilling Dreams.* That’s what the AbilityOne Program means to Barbara.

“That was the best day of my life. I got a job, a real job. Somebody finally gave me a chance!”

**-Barbara**



**Neil** | Skookum Contract Services

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**What does being fulfilled at work mean to you?**

“Now that I no longer work for the Department of Defense, I still have a tie to the importance of the mission that we serve, and I can taste it, and I can see it and I can smell it, and so it just creates that desire to do a good job, because the impacts are large, and it’s a part of who I am.”

---

## Neil Answered America's Call to Serve. Now He Has a New Job, a New Team and a New Purpose.



Driven by duty to country, family, friends and fellow soldiers, Neil answered our nation's call to service. Neil joined the United States Army after the tragic events of September 11, eventually serving in Afghanistan as part of the Stryker Brigade. Those who know Neil describe him as a great team player – a trait he carried with him throughout his time in the Army. "Going overseas, it is all about the person to your left and the person to your right," Neil says. "You have to care for those that are around you."

Neil's core belief in his ability and responsibility to care for others was shattered along with his body when he was injured in Afghanistan. He survived an IED attack and was medically retired from the Army for a seizure disorder resulting from a traumatic brain injury. The life he had known was over, leaving him feeling adrift and unable to provide for his pregnant wife, Jennifer, and their young son.

Neil searched for a new path forward. He sent out more than 200 resumes, but nothing seemed to matter. "I'd been sending out resume after resume after resume," he said. "I couldn't get any responses back. It was really disheartening."

Neil eventually took a low-paying job at Sears. While working one day, he got to talking with a customer – a retired Army colonel and the general manager at Skookum Contract Services – who immediately spotted potential in Neil. That chance meeting led to a full-time position working on an AbilityOne® contract at Skookum. Now, Neil has a new mission as a quality control and safety manager and a new team to watch out for. "He refuses to fail," says a co-worker. "And he refuses to let us fail."

Neil takes immense pride in his job and in his team, and he feels great satisfaction and fulfillment that he is still doing his part for his country through his work at Skookum where his team repairs military vehicles. Since joining Skookum, Neil has been promoted repeatedly, won awards and earned praise from all corners for his outstanding success rates, including bringing vehicle failure rates down from 17 percent to 2 percent. His co-workers say this: "He goes above and beyond." "He brings such passion and energy to everything he does." "He's a great team player."

Pride in himself, pride in his country and pride in his job. It's a winning combination by any standard and a great example of the amazing things that can happen when potential is transformed into purpose.

### Finding Fulfillment, Pride and Purpose Through Work

In 2018, the National Council of SourceAmerica Employers (NCSE) in conjunction with Imperative, the foremost experts on the science of purpose at work, conducted an informal survey of 5,434 AbilityOne employees to assess their fulfillment at work. While further study is needed, preliminary results indicate that AbilityOne employees report much high job-related fulfillment in general and a higher level of fulfillment for people with disabilities compared to the overall population.

Moving forward, the NCSE will build on this important first step by conducting a follow-on survey. This survey will include the same questions with additional categories of employees for comparison and to evaluate other employment options, including center-based employment, community-integrated employment, contract work outside the AbilityOne Program and more.



**The National Association for the Employment of People who are Blind**

May 8, 2019

Mr. Kim Herrington  
Acting Principal Director, Defense Pricing and Contracting  
3060 Defense Pentagon, Room 3B938  
Washington, DC 20301-3060

Re: Follow up to Presentation dated May 2, 2019

Dear Mr. Herrington,

Thank you again for giving NAEPB the opportunity to address the 898 Panel. We hope the presentation was well received and spurred conversation among Panel participants. As I shared in my remarks, I am hopeful that the Department of Defense through the work of the 898 Panel will spotlight gaps and help make needed reforms in current national policy that will further employment opportunities for people with disabilities. Below are a few key facts for your consideration:

The U.S. Department of Education's data demonstrates that their job placement results have declined by more than 35% since FY2000. Since the WIOA regulations were enacted, the decline in job placements of people with disabilities has been accelerating. They are down 16% since 2014.

The impact of the WIOA regulations, well intended as they may be, has been acute for people who are blind. They have witnessed a 46% decline in job placements through VR since 2014. In fact, VR across the nation, with a budget of \$4.5B, placed just 6,480 people who are blind into jobs in 2018. AbilityOne employed almost as many people who are blind nationally at a fraction of the cost to the taxpayer.

We strongly support the work of the Panel, which we hope will lead to enhanced employment opportunities for people who are blind or have other disabilities in the coming years. While we provided feedback in reply to the list of recommendations offered by the Panel in its report dated July 18, 2018, we shared additional recommendations that we believe could enhance job opportunities for people with disabilities within AbilityOne, but also more broadly in our economy. Many of these recommendations have strong support among lawmakers. They include:

- Establish a 2% AbilityOne goal for procurement for DoD and its contractors.
- Amend the definition of Competitive Integrated Employment to include AbilityOne jobs that pay a full wage. We believe an interagency agreement between the AbilityOne Commission and the US Department of Education could achieve this end and could be announced to all states and territories.

- Eliminate the use of Section 14c of the FLSA from all AbilityOne work performed for DoD.
- Limit and enforce the mark ups of AbilityOne products
- Ensure that the Section 846 E-commerce pilot program includes the FAR 8.002 purchasing priorities including a "block and substitute" provision for AbilityOne Procurement List supplies and services.

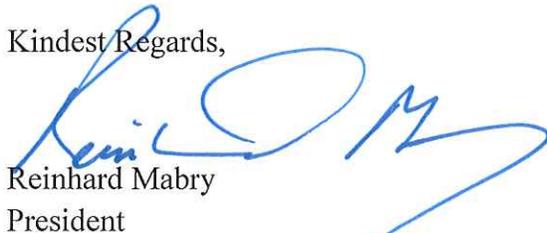
We also support the enactment of pilot or demonstration projects to test ideas that could further enhance employment or, if proven effective, justify reform of the existing JWOD Act in statute. They include:

- Agency-wide ratio pilot. Enact a 3-year pilot to permit up to 20 AbilityOne providers to maintain an agency-wide blind (or significantly disabled) labor ratio of at least 50% of ALL labor, regardless of job position, without regard to the ratio of direct labor.
- Eliminate the SSDI "cash cliff." Partner with the Social Security Administration to conduct a 3-year demonstration project for Social Security recipients working on AbilityOne contracts to step down their benefits by \$1 for every \$2 they earn above the maximum allowed in law without risking their health benefits.
- Enact a Tax Credit for Buying Products and Services from AbilityOne certified Nonprofits. Partner with the IRS to enact a 3-year demonstration project limited to DoD contractors to be granted a dollar for dollar tax rebate up to \$100K per company for purchases made from qualified NPAs.
- Enact the "Roberts Amendment" Demonstration Project that is being proposed within DFARS for 3 years, so long as there is independent certification of contractors that the employees have qualified disabilities to prevent waste, fraud and abuse. The AbilityOne Commission could potentially serve as the independent certifying entity by third-party agreement with DoD during the demonstration project given its expertise.

We would be pleased to offer additional information about these proposals. Moreover, we support increased transparency within AbilityOne and, to that end, would value the opportunity to continue the dialogue by serving as an ongoing resource for the Panel and its subcommittees.

Finally, I again invite you and the Panel, subject to availability of time and budget, to visit Alphapointe or any other NIB-associated nonprofit agency to tour our operations and meet our employees.

Kindest Regards,



Reinhard Mabry  
President

CC: Kevin Lynch, National Industries for the Blind  
Carol Carr, NCSE  
Steve Krotonsky, SourceAmerica  
Tina Ballard, AbilityOne Commission  
Thomas Lehrich, Office of Inspector General

# Appendix

# G

**Panel on Department of Defense and AbilityOne Contracting Oversight,  
Accountability and Integrity**

**Appendix G - List of Panel Recommendations as of October 18, 2019**

The Panel provided 41 recommendations in the first Report to Congress. Through the Panel proceedings over the past year, 15 of the recommendations were determined to be similar and have been combined and several of the recommendations were realigned from one subcommittee to another for implementation. Based on these changes, the Panel is tracking 26 recommendations, 5 of which have been completed and 2 are partially completed, and the balance of the recommendations are in various stages of implementation. Below is a list of the Panel Recommendations:

#	Recommendation
<b>Subcommittee One: Inspector General</b>	
1	Implement existing policy by DoD requiring Contracting Officers to check the AbilityOne Procurement List, and take training on the AbilityOne Program
2	U.S. AbilityOne Training must be continually updated, as Panel recommendations are implemented
<b>Subcommittee Two: Eliminate Waste, Fraud, and Abuse</b>	
3	Increase oversight and strengthen audit coverage
4	Impose stricter requirements on NPAs for documentation and disability determinations
5	Prohibit Use of Program Fee for Lobbying Expenses
<b>Subcommittee Three: Employment Initiatives</b>	
6	Further Study the need for and benefits of program wide implementation of case management records and protocols with defined vocational goals/assessments for all AbilityOne qualified nonprofit agencies
<b>Subcommittee Four: Laws and Regulations</b>	
7	Amend the Javits-Wagner-O'Day Act's 75% Direct Labor Hour ratio requirement, 41 U.S.C. §§ 8501(6)(C), (7)(C), to provide for a range of direct labor hour percentages to promote employment of individuals with disabilities in integrated work environments, and provide for implementation requirements and guidelines
8	Amend the Javits-Wagner-O'Day Act's definition of "Direct labor," 41 U.S.C. §§ 8501(3), to encourage upward mobility and hiring of people with disabilities in supervisory and other indirect labor positions
9	Amend the Javits-Wagner-O'Day Act's definition of "severely disabled," 41 U.S.C. §§ 8501(5) and (8), to eliminate the presumption that eligible individuals are not competitively employable and to clarify and institute a workable definition
10	Amend the Javits-Wagner-O'Day Act's definition of "severely disabled," 41 U.S.C. §§ 8501(5) and (8), to eliminate the presumption that eligible individuals are not competitively employable and to clarify and institute a workable definition
<b>Subcommittee Five: Veterans Eligibility</b>	

#	Recommendation
11	Work with Veterans Affairs and the Department of Education on feasibility, impact, and implementation of recommendations that rely on their determination of veteran and non-veteran eligibility for the AbilityOne Program
12	Develop a certification/validation program for individuals certifying the IEE form and consider acceptance of VA or State IEE submissions, or contracting for eligibility assessment of individuals whose IEE is not provided by the VA or a State Vocational Rehabilitation Agency
13	Develop a goal for Veterans to be integrated into the workforce under internships, part-time, or full-time employment opportunities and scale NPA employment based on goals/objectives/outcomes
<b>Subcommittee Six: Acquisition and Procurement</b>	
14	Develop policy and implement business practices that provide sufficient oversight and transparency. Create incentives for inclusion and mentoring of smaller nonprofit agencies, and for veteran employment opportunities in DoD contracts with AbilityOne nonprofit agencies
15	Develop policy establishing NPA recommendation/allocation procedures
16	Establish business rules for competition and assignment of work among AbilityOne Program NPAs.
17	Establish penalties if a CNA or NPA does not follow policies and procedures
18	Reduce the existing gaps and deficiencies in CNAs' processes
19	Revise 41 CFR 51 to include information regarding undesignation of CNAs and deauthorization of NPAs as the authorized source on the Procurement List
<b>Subcommittee Seven: Business Process Re-engineering</b>	
20	Update the Procurement List Information Management System (PLIMS) to reflect detailed information, improve the search functions to enable a more user-friendly interface, and be usable to outside agencies
21	Deploy an IT solution either utilizing a system where the Procurement List (PL) can be linked to existing contracting vehicles or develop a common system that routes purchases through the PL prior to other avenues
22	Build a centralized pricing database, require fair market pricing and prevailing wage documentation in contracts with Federal customers
23	Implement DoD wide policy to designate an AbilityOne Representative (ABOR) program similar to the Air Force model and includes a goal for growth in AbilityOne Program participation
24	Pursue DFARS (PGI language) to detail how to do business with the AbilityOne Program
25	Recommend change to allotted timeframe currently required by the Administrative Procedures Act when adding products or services to the Procurement List
26	Incorporate Section 508 training for contracting personnel to address DoD-wide section 508 compliance shortfall and use DAU online and classroom training to teach AbilityOne information

# Appendix

H



ACQUISITION  
AND SUSTAINMENT

## THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

OCT 11 2019

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES TRANSPORTATION  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES CYBER  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE  
DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(PROCUREMENT), ASA (ALT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION & LOGISTICS MANAGEMENT), ASN (RDA)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING), SAF/AQC  
DIRECTORS, DEFENSE AGENCIES  
DIRECTORS, DEFENSE FIELD ACTIVITIES

SUBJECT: National Disability Employment Awareness Month and the AbilityOne® Program

Each year, the President signs a proclamation in observance of National Disability Employment Awareness Month (NDEAM). This year's Federal NDEAM theme, "The Right Talent, Right Now," emphasizes the talents and skills of workers with disabilities who contribute to America's economic success. Observed each October, NDEAM is an opportunity to recognize and celebrate the workers in the AbilityOne Program, which is one of the largest sources of employment for individuals who are blind or have significant disabilities. The Department of Defense (DoD) contracting workforce supports the AbilityOne employment mission through the procurement of products and services in compliance with the Federal Acquisition Regulation (FAR) subpart 8.7.

The Department continues to be the lead customer of the AbilityOne Program, procuring more than \$2.3 billion of products and services in Fiscal Year (FY) 2019, a 5 percent increase from FY 2018. AbilityOne employees are a vital segment of our defense workforce and proudly contribute to military readiness in many ways, including: manufacturing office products used Department-wide, producing combat uniforms worn by our Armed Forces serving overseas, operating more than 150 Base Supply Centers, providing award-winning food services at base installation dining facilities, and performing contract closeout services. Today, nearly 35,000 individuals who are blind or have significant disabilities, including over 3,000 service-disabled veterans and wounded warriors, perform work on DoD contracts with approximately 500 community-based nonprofit agencies across the country.

The Section 898 Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity, established by the National Defense Authorization Act of Fiscal Year 2017 (Pub. L. 114-328), has developed recommendations that DoD may implement to

increase employment in the AbilityOne Program. As Chair of the Panel, I encourage contracting professionals to be diligent in complying with existing regulations in awarding contracts to AbilityOne participating nonprofit agencies that will have a direct and positive result of creating job opportunities for individuals who are blind or have significant disabilities. Specifically, as part of the market research process and in compliance with FAR subpart 8.7, contracting officials should check the Procurement List at <http://www.abilityone.gov> to determine whether a product or service is on the list. If the required product or service is not on the Procurement List then the DoD customer may work with the U.S. AbilityOne Commission, the Federal agency that administers the AbilityOne Program, to add it to the list.

Additionally, it is critical that the acquisition workforce comply with the accessibility requirements of section 508 of the Rehabilitation Act of 1973, as amended, in order for employees who are blind or visually impaired to work in knowledge-based jobs. Consistent with FAR Subpart 39.2, requirements and contracting officials should review solicitation documents to confirm that the section 508 standards are appropriately considered and clearly stated. Section 508 information and training may be viewed at <https://www.section508.gov/>.

To implement one of the Panel recommendations, the Defense Acquisition University (DAU) deployed a comprehensive update to Continuous Learning Module (CLM) 023, "DAU AbilityOne Training," and in FY 2019, more than 25,000 contracting and purchasing acquisition workforce members successfully completed the training. Including other acquisition workforce members, Federal agencies, and industry partners, a total of 59,037 individuals have taken the training. The CLM 023 training, accessible on the DAU website at [https://icatalog.dau.edu/onlinecatalog/courses.aspx?crs\\_id=418](https://icatalog.dau.edu/onlinecatalog/courses.aspx?crs_id=418), is educating the workforce about the AbilityOne Program and will help ensure that the DoD continues to lead the efforts to create job opportunities for individuals who are blind or have significant disabilities.

During NDEAM, we express appreciation to the AbilityOne employees for their contributions to the defense mission throughout the year. I also commend the DoD acquisition professionals for their leadership in facilitating new prime contract opportunities to increase employment with the AbilityOne Program. Through the commitment in action of the acquisition workforce, veterans and individuals who are blind or have significant disabilities will have a greater opportunity to work, lead independent lives, serve in communities, and contribute to the strength of our Nation's economy. My senior staff lead for AbilityOne procurement policy is Ms. Susan Pollack who may be contacted at 703-697-8336.

Sincerely,



Kim Herrington  
Acting Principal Director,  
Defense Pricing and Contracting