



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

Chairperson  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Chairperson:

Section 898(i)(2) of the National Defense Authorization Act for Fiscal Year 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 third annual report to Congress, which provides the implementation status of the recommendations identified and discussed in the Panel’s first and second annual reports.

The enclosed third annual Panel report covers the period of November 1, 2019, through October 31, 2020. The Department expects to submit the fourth and final annual Panel report by the end of December 2021.

I am sending identical letters 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,

**CUMMINGS.STACY.**  
**A.1040597570**

Digitally signed by  
CUMMINGS.STACY.A.1040597570  
Date: 2021.02.04 16:19:55 -05'00'

Stacy A. Cummings  
Principal Deputy Assistant Secretary of Defense (Acquisition)  
Performing the Duties of Under Secretary of Defense for  
Acquisition and Sustainment

Enclosure:  
As stated

cc:  
Ranking Member



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

Chairperson  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

Dear Chairperson:

Section 898(i)(2) of the National Defense Authorization Act for Fiscal Year 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 third annual report to Congress, which provides the implementation status of the recommendations identified and discussed in the Panel's first and second annual reports.

The enclosed third annual Panel report covers the period of November 1, 2019, through October 31, 2020. The Department expects to submit the fourth and final annual Panel report by the end of December 2021.

I am sending identical letters 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,

CUMMINGS.STACY.A  
.1040597570

Digitally signed by  
CUMMINGS.STACY.A.1040597570  
Date: 2021.02.04 16:20:23 -05'00'

Stacy A. Cummings  
Principal Deputy Assistant Secretary of Defense (Acquisition)  
Performing the Duties of Under Secretary of Defense for  
Acquisition and Sustainment

Enclosure:  
As stated

cc:  
Vice Chairperson



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

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 Fiscal Year 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 third annual report to Congress, which provides the implementation status of the recommendations identified and discussed in the Panel’s first and second annual reports.

The enclosed third annual Panel report covers the period of November 1, 2019, through October 31, 2020. The Department expects to submit the fourth and final annual Panel report by the end of December 2021.

I am sending identical letters 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,

**CUMMINGS.STAC** Digitally signed by  
**Y.A.1040597570** CUMMINGS.STACY.A.1040597570  
Date: 2021.02.04 16:20:40 -05'00'

Stacy A. Cummings  
Principal Deputy Assistant Secretary of Defense (Acquisition)  
Performing the Duties of Under Secretary of Defense for  
Acquisition and Sustainment

Enclosure:  
As stated

cc:  
The Honorable Kay Granger  
Ranking Member



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

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 Fiscal Year 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 third annual report to Congress, which provides the implementation status of the recommendations identified and discussed in the Panel’s first and second annual reports.

The enclosed third annual Panel report covers the period of November 1, 2019, through October 31, 2020. The Department expects to submit the fourth and final annual Panel report by the end of December 2021.

I am sending identical letters 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,

**CUMMINGS.STAC** Digitally signed by  
CUMMINGS.STACY.A.1040597570  
**Y.A.1040597570** Date: 2021.02.04 16:20:55 -05'00'

Stacy A. Cummings  
Principal Deputy Assistant Secretary of Defense (Acquisition)  
Performing the Duties of Under Secretary of Defense for  
Acquisition and Sustainment

Enclosure:  
As stated

cc:  
The Honorable Mike Rogers  
Ranking Member



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

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

Dear Madam Chairwoman:

Section 898(i)(2) of the National Defense Authorization Act for Fiscal Year 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 third annual report to Congress, which provides the implementation status of the recommendations identified and discussed in the Panel’s first and second annual reports.

The enclosed third annual Panel report covers the period of November 1, 2019, through October 31, 2020. The Department expects to submit the fourth and final annual Panel report by the end of December 2021.

I am sending identical letters to the congressional defense committees, the Senate Committee on Homeland Security and Governmental Affairs, and the U.S. AbilityOne Commission.

Sincerely,

**CUMMINGS.STACY.** Digitally signed by  
**A.1040597570** CUMMINGS.STACY.A.1040597570  
Date: 2021.02.04 16:21:12 -05'00'

Stacy A. Cummings  
Principal Deputy Assistant Secretary of Defense (Acquisition)  
Performing the Duties of Under Secretary of Defense for  
Acquisition and Sustainment

Enclosure:  
As stated

cc:  
The Honorable James Comer  
Ranking Member



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

Chairperson  
Committee on Homeland Security and  
Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Chairperson:

Section 898(i)(2) of the National Defense Authorization Act for Fiscal Year 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 third annual report to Congress, which provides the implementation status of the recommendations identified and discussed in the Panel’s first and second annual reports.

The enclosed third annual Panel report covers the period of November 1, 2019, through October 31, 2020. The Department expects to submit the fourth and final annual Panel report by the end of December 2021.

I am sending identical letters to the congressional defense committees, the House Committee on Oversight and Government Reform, and the U.S. AbilityOne Commission.

Sincerely,

**CUMMINGS.STACY** Digitally signed by  
**.A.1040597570** CUMMINGS.STACY.A.1040597570  
Date: 2021.02.04 16:21:28 -05'00'

Stacy A. Cummings  
Principal Deputy Assistant Secretary of Defense (Acquisition)  
Performing the Duties of Under Secretary of Defense for  
Acquisition and Sustainment

Enclosure:  
As stated

cc:  
Ranking Member



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

Mr. Jeffrey A. Koses  
Chairman  
U.S. AbilityOne Commission  
Arlington, VA 22202

Dear Mr. Chairman:

Section 898(i)(2) of the National Defense Authorization Act for Fiscal Year 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 third annual report to Congress, which provides the implementation status of the recommendations identified and discussed in the Panel’s first and second annual reports.

The enclosed third annual Panel report covers the period of November 1, 2019, through October 31, 2020. The Department expects to submit the fourth and final annual Panel report by the end of December 2021.

I am sending identical letters to the congressional defense committees, the House Committee on Oversight and Government Reform, and the Senate Committee on Homeland Security and Governmental Affairs.

Sincerely,

CUMMINGS.STAC Digitally signed by  
Y.A.1040597570 CUMMINGS.STACY.A.1040597570  
Date: 2021.02.04 16:21:58 -05'00'

Stacy A. Cummings  
Principal Deputy Assistant Secretary of Defense (Acquisition)  
Performing the Duties of Under Secretary of Defense for  
Acquisition and Sustainment

Enclosure:  
As stated

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

## Third Annual Report to Congress

For the period November 1, 2019 through October 31, 2020



Office of the Under Secretary of Defense for  
Acquisition and Sustainment

January 2021

The estimated cost of this report for the Department of Defense  
is approximately \$ 22,000.00 in DoD labor.  
Generated on 2020Dec07 RefID: 6-04E256F

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

### **Background**

Section 898 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Public Law 114-328) required the Secretary of Defense to establish the “Panel on Department of Defense and U.S. AbilityOne Contracting Oversight, Accountability, and Integrity” (“the Panel”). The primary mission of the Panel is to identify vulnerabilities and opportunities in Department of Defense (DoD) contracting within the AbilityOne Program and, at a minimum, recommend improvements in the oversight, accountability, and integrity of the Program. The Panel established subcommittees to fulfill its duties as required by section 898(c) and to assist the Panel members and senior-level representatives from Department of Defense agencies, the Department of Justice (DOJ), 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 has submitted three reports to Congress: a progress report in September 2017, the first annual report in January 2018, and the second annual report in January 2020. This is the Panel’s third annual report to Congress that covers the period of November 1, 2019, through October 31, 2020. This report provides progress on the implementation of the recommendations in the first and second reports to Congress.

### **Panel Accomplishment Highlights**

During my nearly two-year tenure as the Chair, the Panel, supported by six subcommittees, has made tremendous progress towards implementing the Panel recommendations and modernizing the AbilityOne Program. In 2020, the Panel convened quarterly and the subcommittees met regularly. In March, the Panel successfully converted to conducting business virtually due to the global pandemic.

Over the past year, the Panel increased outreach, engagement and consultation with AbilityOne Program stakeholders. Prior to the pandemic, the Panel held a quarterly meeting at the headquarters of National Industries for the Blind (NIB). This was an impactful meeting as the Panel members learned from employees who are blind about the importance of accessibility, adaptive technology, and universal design in the workplace. The Panel Members heard firsthand about the criticality of adaptive environments for the success of employees with disabilities or who are blind to perform their jobs as well as for increasing new employment opportunities by removing barriers against productive work. In December, I was a guest speaker at a National Council of SourceAmerica Employers (NCSE) event, and was able to do site visits to local AbilityOne nonprofit agencies (NPAs), including the San Antonio Lighthouse for the Blind and the Visually Impaired, where program participants who are blind are working alongside Air Force personnel, a positive example of an ability-diverse workplace. I also had informative discussions during my visit at San Antonio Goodwill Business Services where employees with disabilities are performing work on a diversity of contracts.

A highlight of the Panel year was the virtual meeting held in August. The DOJ Panel members organized a meeting with impressive expert-driven panels that focused on the topic of Competitive Integrated Employment (CIE) and its relevance to the AbilityOne Program. The meeting was a tremendous use of technology and a shining example of collaboration across the Federal government, including involvement of the Department of Education, Office of Special

Education and Rehabilitative Services, and the Department of Labor, Office of Disability Employment Policy (ODEP), and attendance of disability employment service providers and self-advocates. The meeting included a session on the legal requirements and policy background and context of CIE, presentations by advocates with disabilities about CIE and its importance to them, and presentations by providers of supported and customized employment services around the country about providing individualized employment services in myriad employment contexts, including using technology to increase access to a greater range of CIE opportunities. Various organizations and employees with disabilities participated, ranging from Federal agencies to an AbilityOne NPA. The presentations and personal testimonies heard during the meeting served as a reminder of the Panel's mission to recommend measures that would create employment opportunities for people with disabilities that are integrated, pay competitive wages and salaries, and offer opportunities for upward mobility and individualized career development. One of the strongest messages conveyed to the Panel, particularly by several self-advocate presenters, was that each person should be in the driver's seat when it comes to his or her own employment goals, services, and career development. This means that employment services—including those that help people with disabilities develop employment goals, find job opportunities, and obtain and retain jobs—need to be individualized and based on the recipient's stated interests, skills, and goals. Programs and services should not be one-size-fits-all or based on assumptions about a person's capabilities and prospects, but rather should start from the goals of facilitating both community integration and individual autonomy.

All of these engagements and conversations assist the Panel in making informed decisions, provide valuable context for the work of the Panel and subcommittees, and result in more collaborative outcomes for the AbilityOne Program and employees. For example, the Panel's engagement with a range of stakeholders has enabled it to develop a recommendation, included in this Report, regarding how to amend the statutory direct labor hour ratio and definition of direct labor so as to both facilitate integration within the AbilityOne Program and incentivize upward mobility for employees with disabilities within the program and outward mobility into the competitive labor market. The Panel believes its recommendation addresses both the need for modernization of the program in light of current disability rights law and employment policy, and the goal of increasing quality employment opportunities for people with disabilities across the country.

As a result of Panel proceedings over the past year, the Panel prioritized the 25 recommendations identified in the second annual report, some of which were completed by actions taken and others which are in various stages of implementation. A couple of the recommendations were combined or modified as explained within the report. The feasibility of certain recommendations continue to be explored by stakeholders with new initiatives. The actions taken to date are improving the oversight, accountability, and transparency in contracting with the AbilityOne Program network, increasing employment opportunities, and should result in the DoD improving the customer experience with the AbilityOne Program.

A significant accomplishment during this reporting period is the issuance of needed and essential compliance policies by the U.S. AbilityOne Commission. This action is the result of a recommendation shepherded by Subcommittee Two. The compliance policies begin to install needed guidance across the AbilityOne network.

Another significant action completed is the establishment of the AbilityOne Representative (ABOR) program across the Department of Defense, effective October 1, 2021. This action is the result of a recommendation by Subcommittee Seven to establish a program based on the successful Air Force ABOR program. The ABOR Program includes a strategic and data-driven approach to identifying new lines of business with the AbilityOne Program and establishes a management level procurement goal.

Through Subcommittee One, the Panel continues to track the number of individuals completing the AbilityOne training at the Defense Acquisition University (DAU). All of these actions have a positive impact on the U.S. AbilityOne Commission oversight function and employment growth for the Program.

### **Panel Findings**

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 its Office of Inspector General (OIG). The Panel and the U.S. 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 Commission's Office of Inspector General is a young office and has already contributed greatly to the Panel and improving the economies and efficiencies of the Commission. The majority of the recommendations require action by the U.S. AbilityOne Commission to establish or update policies, business practices, and regulations, or to recommend congressional amendment(s) of the Javits-Wagner-O'Day (JWOD) Act.

In order to implement the Panel recommendations, modernize the AbilityOne Program, and fulfill the mission to employ people who are blind or have significant disabilities, it is critical that the U.S. AbilityOne Commission have sufficient resources and be able to prioritize the scarce resources. The Commission is operating on an insufficient FY 2020 funding level of \$10 million (\$8.35 million for the Commission and \$1.65 million for the Office of Inspector General). In accordance with the U.S. AbilityOne Commission FY 2019 annual data compiled from the NPAs' submission of Representations and Certifications, this lean budget is used to oversee the Program's three Central Nonprofit Agencies (CNAs) and 472 geographically dispersed NPAs that employ approximately 45,000 individuals who are blind or have significant disabilities, with a program size of \$4 billion dollars.

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

Another common and consistent theme of discussion among the Panel and in communications with the AbilityOne CNAs, affiliated associations, and NPAs remains the need for a statutory DoD AbilityOne contract goal. A 1.5 percent goal was recommended in the Panel's first and second reports to Congress. 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. Continuing to enhance the operation of the program and to implement the Panel recommendations such as the issuance of compliance policies should give Congress the confidence to enact a 1.5 percent participation goal. Establishing an AbilityOne contracting goal will provide the Program with performance metrics like other statutory program goals, and make it easier for the acquisition workforce to support the addition of new products and services to the Procurement List (PL). The result will be increased employment across the AbilityOne Program.

### Final Thoughts

AbilityOne companies and workforce have proven to be a vital segment of the defense industrial base and contribute to communities and local economies across the country. Since the beginning of the COVID-19 pandemic, DoD contracting professionals have processed 600 contract actions, valued at \$43 million, with AbilityOne companies. These companies increased surge capacity to manufacture and deliver critical products and to maintain essential services to support the ongoing COVID-19 national emergency response. AbilityOne workers were and remain on the front lines of defense, keeping our workforce safe and buildings operational during this pandemic.

Employees who are blind or visually impaired, or who have significant disabilities, are sewing and delivering high-demand items such as masks, gowns, and military uniforms, and helped load meals into the USNS *Comfort* for its mission support to the pandemic response in New York City. AbilityOne employees with disabilities are working extra shifts to produce hand-sanitizers, construction kits, and Personal Protective Equipment, and to provide laundry and deep-cleaning disinfecting services for military hospitals.



Cole DeLuca at IFB Solutions in Winston-Salem, NC, is one of more than 25 IFB Solutions employees working to produce tens of thousands of masks for the U.S. Air Force.

DOD continues to be the lead customer of the AbilityOne Program, procuring more than \$2.3 billion of products and services in FY 2020. Today, nearly 35,000 individuals who are blind or have significant disabilities perform work on DOD contracts with approximately 472 community-based NPAs across the United States and its territories. The AbilityOne Program conducted nearly \$4 billion in business with Federal agencies in FY 2019. Appendix A is a United States map that identifies the AbilityOne Program dollars in each State.

The respective Federal agencies represented on the Panel, as well as the CNAs and NPAs, are investing significant resources to implement Panel 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.

The Panel continues to work on AbilityOne Contracting Oversight, Accountability, and Integrity within the authorities of the NDAA, and procurement statutes and regulations. The Panel also supports pilot tests that may provide a basis for amending the JWOD Act, as it pertains to contracts employing people who are blind or have significant disabilities.

The recent guidance issued on October 30, 2020, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP) to strengthen employment opportunities for persons with disabilities creates additional important pathways that will help reinforce and expand to civilian agencies some of the Panel's recommendations for the Department. These include direction for all Chief Financial Officers Act agencies to designate an ABOR and encouragement for agencies to re-prioritize their contract spend so that they can enter into a pledge with the Commission to increase their percentage of spend on products and services from the Procurement List to 1.5 percent of the total amount of funds obligated for contracts entered into in FY 2022, to the extent feasible. The Defense Pricing and Contracting's (DPC) Director of Contract Policy will be the Office of the Secretary of Defense representative for the OFPP ABOR program.

The work of the Panel over the past three years has 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. During the third year, the Panel has implemented recommendations, overseen the pilot tests, and worked on changes to laws, regulations, and policies.

During 2021, the Panel will continue outreach communications, feasibility studies, implementation of actionable recommendations, and consideration of how to sustain the work of the Panel for the Program's future. The Panel expects to submit the fourth report by December 31, 2021.

To accomplish the multi-faceted mission of the Panel, I am pleased to have the full participation on the Panel of the Commission Chairperson, Executive Director, Director of Veterans Employment and Initiatives, and Inspector General of the U.S. AbilityOne Commission, the DOJ, and other statutory members. Appendix B of this report is a memorandum from the Chairperson of the U.S. AbilityOne Commission.

The AbilityOne Program workforce is incredibly talented and has valuable experience to assist customers in addressing top business concerns, pricing impasses, and performance issues to ensure uninterrupted service across the Federal government. Through the commitment in action

of the Panel, the AbilityOne community, and Congress; professionals and employees with disabilities; veterans; veterans with disabilities; and individuals who are blind, visually impaired, or have significant disabilities will have a greater opportunity to work and lead independent lives, serve in communities, and contribute to military readiness and to the strength of our Nation's economic success.

**HERRING** Digitally signed by  
**TON.KIM.1** HERRINGTON.KI  
**507719313** M.1507719313  
Date: 2021.01.11  
17:32:59 -05'00'

---

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

## Table of Contents

<b>Section I – Introduction</b> .....	9
Panel Membership .....	10
Meetings and Events in 2019 and 2020 .....	11
Outreach and Consultation .....	11
Summary of Recommendations .....	13
<b>Section II – Discussion of Panel Recommendations*</b> .....	15
Subcommittee One – Inspector General .....	16
Subcommittee Two – Eliminate Waste, Fraud, and Abuse .....	18
Subcommittee Four – Laws and Regulations .....	23
Subcommittee Six – Acquisition and Procurement .....	28
Subcommittee Seven – Business Process Re-engineering .....	40
Subcommittee Eight – Employment Initiatives and Veterans Eligibility .....	45
<b>Section III – Next Steps</b> .....	53
<b>Section IV – Appendices</b> .....	53
Appendix A – U.S. AbilityOne Commission Program Site Map of the United States	
Appendix B – Letter from the U.S. AbilityOne Commission Chair to the Panel Chair	
Appendix C – Section 898 of the National Defense Authorization Act for FY 2017	
Appendix D – Letters from External Organizations to the Panel Chair	
Appendix E – DoD National Disability Employment Awareness Month Memorandum	

\* Following the second annual Report to Congress, the Panel Chair combined Subcommittees Three and Five to form Subcommittee Eight, Employment Initiatives and Veterans Eligibility. Subcommittee Eight was divided into two subgroups: Subcommittee 8a - Employment Initiatives and Subcommittee 8b - Veterans Eligibility.

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

**Section I: Introduction**

**Panel Membership**

During the timeframe covered by this report, Mr. Kim Herrington, previously the Acting Principal Director, Defense Pricing and Contracting was the Panel Chairman (“the Chair”). Effective November 9, 2020, Mr. Herrington is the Director of Industrial Base Acquisition Portfolio Management to the Under Secretary for Acquisition and Sustainment. Effective November 9, Mr. John Tenaglia is the Principal Director, Defense Pricing and Contracting and has assumed the role as Chair. 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, Department of Veterans Affairs, Department of Labor, the General Services Administration, and the Defense Acquisition University. Section 898(a)(2) was specific in the composition of the Panel, provided as Appendix C, and also provides discretion to the Panel Chair in identifying other representatives, as needed. As identified in the first Report to Congress, the DoD organizations and other applicable organizations responded to the Under Secretary for Acquisition and Sustainment’s call for nominations. The Panel Chair 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 membership includes representatives from agencies and departments who can offer expertise to accomplish the specified Panel duties. The following organizations are represented on the Panel:

**Figure 1.** Panel Membership

<b>Representatives (Organizations)</b>	<b>Office/Position</b>
Panel Chairman	Office of the Under Secretary of Defense (Acquisition and Sustainment); Principal Director, Defense Pricing and Contracting (SES)
Executive Secretary	Department of the Army, Army Contracting Command – Aberdeen Proving Ground; 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)	Director, Contract Policy, Defense Pricing and Contracting (SES)
Department of the Army	Deputy Assistant Secretary of the Army (Procurement) (SES)

<b>Representatives (Organizations)</b>	<b>Office/Position</b>
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 (SES)
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
Air Force Audit Agency	Associate Director, Acquisition Division
Defense Acquisition University	Center Director for Contracting
Defense Health Agency	Director of Contracting (SES)
U.S. Department of Justice	Office of the Assistant Attorney General, Civil Rights Division, Deputy Assistant Attorney General
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, Business Development Specialist
U.S. General Services Administration	Federal Acquisition Service, Office of Supplies and Services Categories
National Aeronautics and Space Administration	Headquarters, Office of Procurement
U.S. Department of Education	Office of Special Education and Rehabilitative Services, Deputy Commissioner, Rehabilitation Services Administration
U.S. Department of Veterans Affairs	Veterans Readiness and Employment 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.	

### **Meetings and Events in 2019 and 2020**

As specified in section 898, the Panel meets as determined necessary by the Chair, but not less than once every four months. The Panel subcommittees meet regularly, as determined by the

subcommittee lead, in order to make progress in achieving its mission. Figure 2 provides a summary of the Panel meetings and associated agendas from November 1, 2019, through October 31, 2020. During the meetings, Panel members shared information, ideas, and perspectives; reviewed status of implementing actionable recommendations; and shared what they had learned from AbilityOne stakeholders.

**Figure 2.** Schedule of Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity meetings in late 2019 and during 2020.

Date	Purpose
November 7, 2019	Panel Meeting <ul style="list-style-type: none"> <li>• Held at NIB headquarters</li> <li>• Learned from employees who are blind about the importance of accessibility, adaptive technology, and universal design in the workplace</li> <li>• DAU training update</li> <li>• Army analysis of the competition pilot</li> <li>• Subcommittee updates</li> </ul>
January 29, 2020	Panel Meeting <ul style="list-style-type: none"> <li>• Reviewed Panel Focus for 2020</li> <li>• Status of recommendations</li> <li>• Subcommittee updates</li> </ul>
May 6, 2020	Panel Meeting (Virtual) <ul style="list-style-type: none"> <li>• U.S. AbilityOne Commission Chair remarks about the contributions of the AbilityOne Program employees' to the COVID-19 national emergency response</li> <li>• Subcommittee updates</li> </ul>
August 4, 2020	Panel Meeting (Virtual) <ul style="list-style-type: none"> <li>• Organized by the DOJ Panel members</li> <li>• Panel I - Overview of the Federal Civil Rights &amp; Policy Framework related to Advancing CIE</li> <li>• Panel II - Why Prioritizing CIE is so Important, from the Perspective of Self-Advocates (Advocates with Disabilities)</li> <li>• Panel III - Making Employment Service Provider/NPA Transformation to Integration Possible</li> </ul>

**Outreach and Consultation**

In accordance with section 898, consultation with the CNAs and NPAs continues to be of utmost importance for the Panel. In Figure 3, is a table of stakeholder outreach with the CNAs and NPAs. This list does not include all of the meetings and communications between the subcommittees and the CNAs and NPAs. The written inputs received from SourceAmerica, the NCSE, NIB, and the National Association for Employment of People Who Are Blind (NAEPB) are included in Appendix D. The respective written documents were shared with the Panel

members and subcommittee leads for consideration in the implementation of the recommendations.

**Figure 3.** External Outreach Events with Stakeholders

Date	Purpose
November 7, 2019	Quarterly Panel meeting held at NIB headquarters. Panel members toured the new accessible facility and spoke with employees.
November 20, 2019	Subcommittee Four conducted an NPA site visit to VisionCorps in Lancaster, PA.
November 26, 2019	Subcommittee Four conducted an NPA site visit to Blind Industries and Services of Maryland (BISM) in Baltimore, MD.
December 2-4, 2019	Panel Chair spoke at the SourceAmerica/NCSE Senior Leadership and NPA Chief Executive Officer (CEO) Forum in San Antonio, Texas. Panel Chair participated in meetings and spoke with AbilityOne employees at Goodwill Business Services, a SourceAmerica associated agency, and the San Antonio Lighthouse for the Blind and the Visually Impaired, an NIB associated agency.
February 12, 2020	Commission Public Meeting hosted at U.S. AbilityOne Commission.
March 25, 2020	Subcommittee Two invited the President and CEO of Peckham, Inc. to address the subcommittee about disability documentation reviews. Peckham is one of the larger AbilityOne Program NPAs affiliated with SourceAmerica.
April 7, 2020	Panel Chair invited as a keynote speaker at the 2020 SourceAmerica National Training and Achievement Conference. <i>This event was cancelled due to the national COVID-19 response.</i>
April 8, 2020	Commission Public Meeting hosted at SourceAmerica Annual Training & Achievement Conference. <i>This meeting was cancelled due to the national COVID-19 response.</i>
May 4, 2020	Subcommittee Four invited SourceAmerica to a subcommittee meeting to provide an update on the Direct Labor Hour ratio pilot.
June 24, 2020	Subcommittee Two invited the President of BISM to address the subcommittee about NPA compliance practices.
July 14, 2020	Subcommittee 8b invited the Vice President of Global Connections to Employment to discuss the pilot project they are working on with the Defense Health Agency and to discuss challenges, issues, and concerns with hiring veterans.
July 28-29, 2020	SourceAmerica and NCSE hosted the U.S. AbilityOne Commission at the NCSE CEO/Senior Leadership Forum where the progress on the Panel recommendations was discussed. The U.S. AbilityOne Commission and SourceAmerica attended a General Services Administration (GSA) Office Hours session to discuss the specifics of the Acquisition Gateway Pricing Database.
July 30, 2020	The U.S. AbilityOne Commission and SourceAmerica met with one of two Direct Labor Hour ratio pilot participants to discuss current progress.

Date	Purpose
August 4, 2020	SourceAmerica attended the quarterly Panel meeting to discuss section 14(c) of the Fair Labor Standards Act and CIE.
August 11, 2020	Subcommittee 8b invited CNA members from NIB and SourceAmerica to discuss the process used to identify labor type (direct/indirect), hiring practices (barriers to employment), and incentives for hiring veterans. Additionally, the Panel invited two veterans who currently work in the AbilityOne Program to talk about their personal experiences with the AbilityOne Program, the President and CEO of BOSMA, and the Deputy Director, Defense Manpower Data Center – Fort Knox.
September 3, 2020	The U.S. AbilityOne Commission, SourceAmerica, and the Ratio CEO Roundtable met to discuss updates on the Direct Labor Hour ratio pilot.
September 21, 2020	Subcommittee Four invited SourceAmerica to a subcommittee meeting to provide an update on the Direct Labor Hour ratio pilot.
October 6, 2020	Commission Public Meeting hosted virtually.
October 13, 2020	Panel Chair gave keynote remarks at the virtual 2020 NIB/NAEPB National Training Conference and Expo.
October 21, 2020	Subcommittee Four provided a briefing and question-and-answer session on the Panel’s proposed dual-ratio recommendation to representatives of the U.S. AbilityOne Commission, the American Foundation for the Blind, NIB, SourceAmerica, and the NCSE Executive Committee.
October 27, 2020	Subcommittee Four’s lead participated in the virtual 2020 JWOD Legal & Policy Symposium, hosted by AbilityOne NPA Melwood, to provide a public briefing and solicit feedback on the Panel’s proposed dual-ratio recommendation. The audience consisted of approximately 80 stakeholders, and a recording of the session has since been posted online. The lead for Subcommittee Six also spoke at the Symposium.
October 28, 2020	Subcommittee Six hosted the U.S. AbilityOne Commission and SourceAmerica to present the proposal for competition.
Ongoing	Weekly collaborative meetings with the U.S. AbilityOne Commission, SourceAmerica, and the NCSE Executive Committee to support implementation of the Panel recommendations.
Ongoing	Weekly or bi-weekly meetings with the U.S. AbilityOne Commission, SourceAmerica, and Mathematica Policy Research to discuss progress on the Direct Labor Hour ratio pilots.

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

**Summary of Recommendations**

The Panel reported on 25 recommendations in the second Report to Congress. Two recommendations overseen by Subcommittee Four have been combined so the Panel will be tracking 24 recommendations in 2021. Seven recommendations are tracked as completed, and the remaining are in various stages of implementation. Figure 4 provides the List of Recommendations, their completion status, and the subcommittees responsible for each recommendation.

**Figure 4.** List of Panel Recommendations

#	Recommendation	Complete	Page #
<b>Subcommittee One: Inspector General</b>			
1	Implement existing policy by DoD requiring Contracting Officers to check the AbilityOne PL, and take training on the AbilityOne Program	✓	16
2	U.S. AbilityOne Training must be continually updated, as Panel recommendations are implemented	✓	17
<b>Subcommittee Two: Eliminate Waste, Fraud, and Abuse</b>			
3	Increase oversight and strengthen audit coverage		18
4	Impose stricter requirements on NPAs for documentation and disability determinations		21
5	Prohibit Use of Program Fee for Lobbying Expenses		22
<b>Subcommittee Three: Employment Initiatives (merged with Subcommittee Five to form Subcommittee Eight)</b>			
<b>Subcommittee Four: Laws and Regulations</b>			
6	Amend the JWOD Act’s 75 percent Direct Labor Hour ratio requirement, 41 U.S.C. §§ 8501(6)(C), (7)(C), to promote employment and upward mobility of individuals with disabilities in integrated work environments, and provide for implementation requirements and guidelines		23
7	Amend the JWOD 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	Now incorporated into Recommendation Six	23
8	Amend the JWOD 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		28
<b>Subcommittee Five: Veterans Eligibility (merged with Subcommittee Three to form Subcommittee Eight)</b>			
<b>Subcommittee Six: Acquisition and Procurement</b>			
9	Develop policy and implement business practices that provide sufficient oversight and transparency. Create incentives for inclusion and mentoring of smaller NPAs, and for veteran employment opportunities in DoD contracts with AbilityOne NPAs	✓	29
10	Develop policy establishing NPA recommendation/allocation procedures		30
11	Establish business rules for competition and assignment of work among AbilityOne Program NPAs		33
12	Establish penalties if a CNA or NPA does not follow policies and procedures		34
13	Reduce the existing gaps and deficiencies in CNAs’ processes	✓	36
14	Revise 41 Code of Federal Regulation (CFR) 51 to include information regarding undesignation of CNAs and deauthorization of NPAs as the authorized source on the PL		37

#	Recommendation	Complete	Page #
<b>Subcommittee Seven: Business Process Re-engineering</b>			
15	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	✓	40
16	Deploy an Information Technology (IT) solution either 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		41
17	Build a centralized pricing database, require fair market pricing and prevailing wage documentation in contracts with Federal customers		42
18	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	✓	43
19	Pursue Defense Federal Acquisition Regulation Supplement (DFARS) (Procedures, Guidance, and Information [PGI] language) to detail how to do business with the AbilityOne Program		43
20	Recommend change to allotted timeframe currently required by the Administrative Procedures Act when adding products or services to the PL		44
21	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	✓	44
<b>Subcommittee Eight: Employment and Veterans Eligibility</b>			
22	Change the Commission's regulation for initial qualification for NPAs to participate in the AbilityOne Program to include employment criteria of at least minimum wage comparable to coworkers, a work setting that is inclusive of people with and without disabilities, and opportunities for advancement		46
23	Develop actions to ensure opportunities for CIE outcomes of individuals who are blind or who have significant disabilities, which include veterans and the referrals from other Federal agencies		47
24	Require CNAs to develop a certificate-based training program for individuals certifying an individual's eligibility to work on AbilityOne Program contracts, consider accepting electronic medical documents securely transmitted from Federal and State vocational rehabilitation agencies, and adopt a standardized form approved by Office of Personnel Management (OPM)		49
25	Recommend criteria for veterans with disabilities to be eligible for employment opportunities through the programs of the U.S. AbilityOne Commission that consider the definitions of disability used by the Secretary of Veterans Affairs and the U.S. AbilityOne Commission		50

## **Section II: Discussion and Implementation Status of Panel Recommendations**

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

Lead Organization: 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. [Complete]
2. U.S. AbilityOne Training must be continually updated, as Panel recommendations are implemented. [Complete]

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

#### **Background:**

Section 898 of the NDAA for FY 2017, Public Law 114-328, requires the Panel to establish a more comprehensive AbilityOne training program at DAU. The Subcommittee identified training a key factor in preserving program growth and improving the customer experience in the AbilityOne Program.

Recommendation addresses section 898(c)(1) – review implementation of the DoDIG report findings and recommendations; reference DoDIG Report 2016-097, published June 27, 2016, includes a recommendation to update training to clearly define the DoD Contracting Officer's roles and responsibilities when awarding contracts with the AbilityOne Program.

#### **Implementation Status:**

Panel Recommendation 1 was implemented through two different memorandums issued by the Principal Director, 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, 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.

Since the recommendation was closed for purposes of tracking, another memorandum, signed by the Principal Director, DPC, on October 8, 2020, encourages contracting professionals to take

the DAU Continuous Learning Module (CLM) 023, “DAU AbilityOne Training,” to meet continuous learning requirements. This memorandum is included in this report as Appendix E.

**Panel Recommendation 2:** U.S. AbilityOne Training must be continually updated, as Panel recommendations are implemented.

**Background:**

Section 898 of the NDAA for FY 2017, Public Law 114-328, requires the Panel to establish a more comprehensive AbilityOne training program at DAU.

Recommendation addresses section 898(c)(1) – review implementation of the DoDIG report findings and recommendations; ref DoDIG Report 2016-097, published June 27, 2016, includes a recommendation to update training to clearly define the DoD Contracting Officer's roles and responsibilities when awarding contracts with the AbilityOne Program.

**Implementation Status:**

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 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 section 898(l) 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), Section 8.002 and Subpart 8.7.

Table 1 provides the total graduation statistics data for CLM 023, as of September 30, 2020.

**Table 1.** CLM 023 Course Completion Statistics

	<b>Oct 1, 2017 – May 6, 2018</b>	<b>May 7 – Sept 30, 2018*</b>	<b>Fiscal Year 2019</b>	<b>Fiscal Year 2020</b>	<b>Total Completions</b>
Army	8,060	4,758	22,892	12,442	
Navy	241	162	6,823	824	
Air Force	2,445	4,545	20,422	7,634	
Fourth Estate - DOD	352	450	7,939	1,516	
Federal Government	59	62	534	326	
Industry and Other	125	64	473	175	
<b>TOTAL</b>	<b>11,283</b>	<b>10,041</b>	<b>59,083</b>	<b>22,917</b>	<b>103,324</b>
*Data after updated CLM 023 deployed					

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

Lead Organization: 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.

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

#### **Background:**

Section 898(c)(2) – Take actions to eliminate waste, fraud, and abuse with respect to contracts of DoD and the Commission.

The Commission's Oversight and Compliance Directorate at the headquarters office is responsible for ensuring requirements relating to NPA employees' disability status and direct labor hours are followed. The compliance program is responsible for the CNAs' compliance initiatives as well. The Oversight and Compliance Directorate accomplishes this through conducting compliance inspections and reviews. The Commission (including its Oversight and Compliance Directorate) is subject to oversight from the Commission's Office of Inspector General (OIG). The OIG, pursuant to the Inspector General Act of 1978, as amended, has full oversight authority of the programs and operations of the Commission.

The Oversight and Compliance Directorate is a long-established part of the agency. The Directorate's mission is to monitor and promote compliance with applicable laws, regulations, and policies, and enhance overall program integrity, working with CNAs and NPAs participating in the AbilityOne Program. The Directorate's responsibilities include issuing policy guidance and training program participants, conducting routine inspections, reviewing and addressing mandatory disclosures and complaints, performing comprehensive reviews of Annual Certifications, reviewing proposed additions of products and services to the PL for NPA qualification and capability, and providing support to OIG and/or DOJ investigations, as needed.

The OIG is a relatively new office and is responsible for conducting audits and investigations, recommending policies and procedures that promote economy, efficiency, and effectiveness of agency resources and programs, and detecting and preventing fraud, waste, abuse, and mismanagement.

Presently, neither the Oversight and Compliance Directorate nor the OIG have the resources necessary to fund sufficient staff to fulfill each of their mandates. Both the Oversight and Compliance Director and the OIG require full funding to exercise their respective responsibilities over AbilityOne and its nearly \$4 billion program, which includes approximately 472 NPAs.

Providing this comprehensive oversight requires dedicated and sufficient resources for the build-out of the Oversight and Compliance Directorate and start-up activities of the OIG.

### **Implementation Status:**

The White House has submitted its budget request for FY 2021. The Panel urges Congress to appropriate to the Commission (for the Oversight and Compliance Directorate) and the OIG, no less than the amounts requested for each for FY 2021 (\$1.379 million for the Oversight and Compliance Directorate and \$2.30 million for the OIG). The Panel further recommends that Congress continue increasing these appropriations in future years until they are sufficient to enable each office to fulfill all necessary mission functions (\$2.384 million for the Oversight and Compliance Directorate and \$4.60 million for the OIG).



Beulah Taylor from the Austin Lighthouse for the Blind helps produce hand sanitizer and soap products used to support the Federal government. Since the COVID-19 crisis began in March 2020, the Austin Lighthouse has shipped more than 13 million bottles of hand sanitizer in response to unprecedented demand. The AbilityOne nonprofit also increased its shipping lines production, tripled employee counts, hired more temporary workers, and invested in more facility equipment.

The FY 2021 budget seeks \$2.30 million for the OIG, which would enable the OIG to raise its staffing level to nine full-time equivalent (FTE) positions from its current six, including the Inspector General and counsel. In the longer term, adequate oversight by the OIG of the Commission will require staffing an Office of Audits, an Office of Investigations, and other positions, supporting a business plan for an OIG staff of approximately sixteen FTE positions. This would require an appropriation of \$4.60 million.

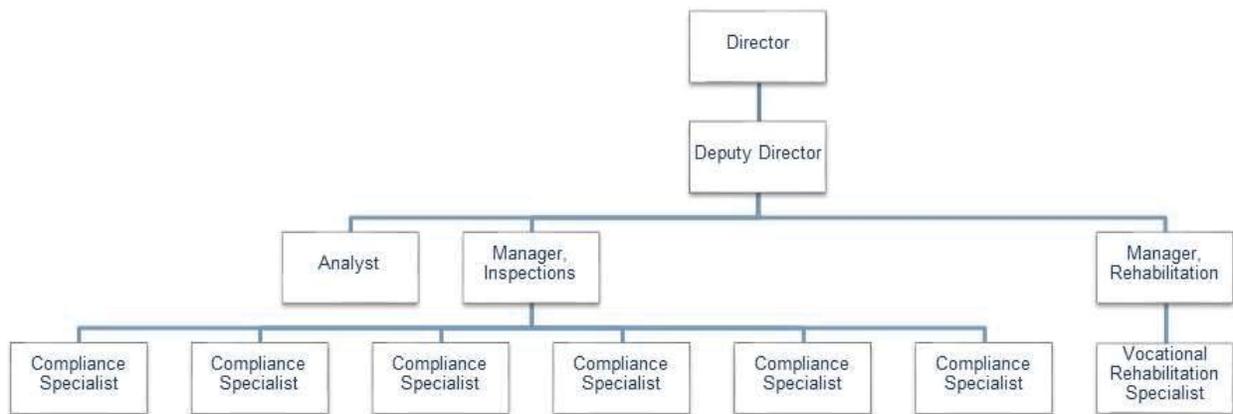
The FY 2021 budget seeks an appropriation for the Commission that would result in an estimated budget of \$1.379 million for the Commission's Oversight and Compliance Directorate. The Commission has not increased resources for the Oversight and Compliance Directorate since FY 2018. For the current fiscal year, these resources were calculated to fund six FTE positions, but the Directorate is currently staffed by only two permanent FTEs and one temporary detailee. Even though this report covers the period through October 30, 2020, it is worth noting that on November 5, 2020, the Director of the Oversight and Compliance Directorate resigned from his position. The Commission has assigned the head of its Western regional office to serve simultaneously as Acting Director of Oversight and Compliance.

The estimated budget of \$1.379 million for FY 2021 would fund 9.33 FTE positions to oversee the Oversight and Compliance Directorate's responsibilities as discussed in the below paragraph. The Panel recommends to the Commission that it (a) conduct a prompt and thorough search for a highly qualified individual with significant experience in compliance matters to fill the Director position permanently, (b) incorporate greater input from the new Director regarding Directorate staffing levels and hiring decisions than was afforded previously, (c) immediately increase the size of the Directorate's staff to at least four FTEs aside from the Director, which the Commission's pre-existing funding levels are already sufficient to fund, and (d) develop written

staffing plans for the Directorate and evaluate the proper job series and skill level needed as they continue to hire additional staff for the Directorate in FY 2021 (including, but not limited to a Deputy Director) to the full extent permitted by Congress’s appropriation for that year. In the longer term, 17.66 FTE positions will be needed to adequately staff the Directorate so that it may fulfill all mission functions, at an estimated cost of \$2.384 million per year.

The Commission headquarters is responsible for the workload of the Oversight and Compliance Directorate, including product and service additions to the PL, CNA Cooperative Agreement adherence, and NPA paperwork review and evaluation. Therefore, staffing needs should be prioritized to ensure and bolster Compliance as a top priority. The Commission also has a Western U.S. Field Office with compliance-related duties, which will therefore need Compliance staff in addition to the 9.33 FTEs for the Oversight and Compliance Directorate. The Commission has also proposed a Central U.S. Field Office, which will likewise have such duties and require such personnel. Organizational flowcharts are provided below in Figures 5 and Figure 6.

**Figure 5.** Headquarters Compliance Personnel Future Structure



**Figure 6.** Regional Compliance Personnel Future Structure



**Resource Requirement (if applicable):**

(1) Funding for FY 2021 in the amount of \$2.30 million for the OIG; and \$1.379 million representing the share of the Commission’s appropriation that would be allocated to the Oversight and Compliance Directorate.

(2) Increased funding in future fiscal years in the amount of \$4.60 million for the OIG; and \$2.384 million representing the share of the Commission’s appropriation that would be allocated to the Oversight and Compliance Directorate.

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

**Background:**

Section 898(c)(2) – Take actions to eliminate waste, fraud, and abuse with respect to contracts of DoD and the Commission.

This Subcommittee found that determinations of individual eligibility for the AbilityOne Program were potentially affected by bias, and that NPA performance on JWOD Act requirements was difficult to evaluate due to poor or complicated data/record-keeping and tracking of hours. NPAs’ compliance with documentation and eligibility requirements has in recent years been hindered by a lack of guidance following the Commission’s withdrawal of its outdated Compliance Manual (published in 2007). This is complicated by the Commission’s lack of transparent policy, training, and a clear regulatory agenda in the area of compliance over the NPAs.

**Implementation Status:**

In summer 2020, the Commission did not complete and/or revise the Compliance Manual and instead prepared a series of new and updated draft policies on compliance, which were designed to replace the manual in providing guidance for NPAs. This Subcommittee reviewed the drafts and provided edits and feedback to the Commission. On August 15, 2020, the Commission finalized the majority of these compliance policies, incorporating many of the Subcommittee’s edits and suggestions, and published the policies on its website at [https://www.abilityone.gov/laws,\\_regulations\\_and\\_policy/commission\\_policy\\_51\\_400.html](https://www.abilityone.gov/laws,_regulations_and_policy/commission_policy_51_400.html).

The new policies are:

51.400 (NPA Overall Compliance Policy)

51.401 (Direct Labor Hour Ratio Requirements)

51.403 (NPA Out of Compliance with Commission Regulations)

51.406 (Equal Employment Opportunity for People with Disabilities at AbilityOne-Participating NPAs)

51.407 (Disability Documentation Requirements – People Who Are Blind)

51.408 (Disability Documentation Requirements – People With Significant Disabilities)

51.409 (Maintaining Qualification of NPAs); and

51.410 (Processing Complaints by Employees of NPAs Performing Work on Contracts Under the AbilityOne Program).

On August 4, 2020, the Commission also created a related Oversight and Compliance Frequently Asked Questions page on its website, which will be updated as needed. Two policies, 51.403 and 51.410, were further revised on November 12, 2020.

Additional revised compliance policies are pending and will be published in the near future. For example, certain policies will need to conform to the implementation of recommendations that will be made by Subcommittee Four, as discussed below. Certain other policies, such as Policy 51.403, should be clearer regarding the scope of the Commission's referrals to the OIG of information of potential violations and complaints; it is recommended the Commission coordinate with the OIG to ensure that these provisions are written in an optimal manner. Consideration should also be given to ensuring the policies are harmonized with organic authority in the JWOD Act. Subcommittee Two will continue to review and provide feedback and comments on the Commission's Compliance policies and publications in 2021, as needed.

**Resource Requirement (if applicable):** See resources identified for Recommendation 3.

**Panel Recommendation 5:** Prohibit Use of Program Fee for Lobbying Expenses.

**Background:**

Section 898(c)(2) – Take actions to eliminate waste, fraud, and abuse with respect to contracts of DoD and the Commission.

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 not 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 Commission, but the Commission does not believe it can effectively, by contract, prohibit CNAs from using their program fees on lobbying.

**Implementation Status:**

The Panel recommends that Congress enact legislation closing the loophole that arguably now allows CNAs to use program fees for lobbying. If Congress wishes to seek a formal opinion from GAO as to whether program fees may be used for lobbying under current law, it may seek a formal opinion from GAO, which prioritizes congressional requests for opinions.

**Resource Requirement (if applicable):** Legislation as described above.

## Subcommittee Four: Laws And Regulations

Lead Organization: U.S. Department of Justice

### Recommendations

6. Amend the JWOD Act's 75 percent Direct Labor Hour ratio requirement, 41 U.S.C. §§ 8501(6)(C), (7)(C), to increase employment opportunities for people with disabilities, while also ensuring that these jobs are integrated and competitive, and provide for implementation requirements and guidelines. This recommendation now also incorporates the previously separate recommendation to amend the JWOD 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.
7. Note that Recommendation 7 is combined with Recommendation 6.
8. Amend the JWOD 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.

**Panel Recommendation 6:** Amend the JWOD Act's 75 percent Direct Labor Hour ratio requirement, 41 U.S.C. §§ 8501(6)(C), (7)(C), as recommended in more detail below, to increase employment opportunities for people with disabilities, while also ensuring that these jobs are integrated and competitive, and provide for implementation requirements and guidelines.

#### Background:

Section 898(c)(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 DoD contracts.

The Panel recommends that the JWOD Act's 75 percent Direct Labor Hour ratio requirement be amended to achieve two goals: increase employment opportunities for people with disabilities, while also ensuring that these jobs are integrated and competitive (as required by the Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA)). This recommendation would modernize the AbilityOne Program in light of the preference in Federal law (and in the policy of nearly all states) to employ people with disabilities in integrated settings and in positions offering competitive compensation.

In order to meet these dual goals, the Panel recommends that Congress repeal the Direct Labor Hour ratio currently required under the JWOD Act, *see* 41 U.S.C. § 8501(3), (6)(C), (7)(C), and that Congress replace it with two new ratios, both of which NPAs would be required to meet. These new ratios are structured so as to: (1) remove the current ratio's barrier to integrated employment settings; (2) incentivize NPAs to promote and hire individuals with disabilities into supervisory, management, executive, and directorial positions, and (3) incentivize NPAs to assist participants with disabilities to obtain CIE that fits their interests, skills, and preferences.



Employees at TRDI, an AbilityOne-participating nonprofit in San Antonio, TX, are among those performing essential janitorial services for Federal agencies including the General Services Administration and the Department of Homeland Security.

### **Findings:**

Over the course of its three years evaluating potential alternative direct labor hour percentages under the existing 1938 statutory framework, the Subcommittee found that merely reducing the existing 75 percent Direct Labor Hour ratio requirement would not best achieve these dual goals. The current framework, which ties NPA qualification only to “direct,” non-supervisory labor, fails to incentivize career development of employees with disabilities and upward mobility into supervisory positions within NPAs or CIE positions.

In addition, while reducing the required Direct Labor Hour percentage from 75 percent might facilitate increased integration in AbilityOne workplaces, it would not, by itself, ensure that AbilityOne workplaces are integrated settings where employees with disabilities work side-by-side with colleagues without disabilities and receive competitive wages. Further, it could have the unintended consequence of incentivizing NPAs to eliminate jobs for people with disabilities in order to reduce their direct labor hour percentage.

The Subcommittee developed and the Panel supports this recommendation for two new ratios, defined as follows.

#### ***A. Recommended Ratio Formulas***

NPAs would have to meet **both** of the following ratios:

**(Ratio I)**       $(A + C + D) / (A + B) > 75\%$ , and

**(Ratio II)**      $A / (A + B) < 75\%$ ,

where, for each NPA:

A = The number of employees with disabilities working on AbilityOne contracts in non-supervisory positions during the reporting period;

B = The number of employees without disabilities working on AbilityOne contracts only in non-supervisory positions during the reporting period;

C = The total number of individuals with disabilities at the NPA who (i) work in supervisory positions on AbilityOne contracts; (ii) hold management or executive positions at the NPA; or (iii) are serving on the NPA's Board of Directors during the reporting period; and

D = The total number of employees with disabilities who transitioned, during the reporting period, into non-AbilityOne CIE positions, where the NPA is not their employer.

NPAs currently report direct labor hours, as well as other information, to CNAs quarterly and to the U.S. AbilityOne Commission annually. The Panel is not recommending that this reporting schedule be changed, so the same reporting periods would apply to NPAs' calculation of the ratios recommended here.

Under this proposal, "employees with disabilities" means blind individuals qualified to participate in the AbilityOne Program under the JWOD Act, 41 U.S.C. § 8501(1), as well as individuals with significant disabilities who meet the definition the Panel is recommending to replace the JWOD Act's current definition of "severely disabled" (*see* Recommendation 8).

Each "employee" would be counted as a fraction of FTE status, based on the average hours he or she works per week on AbilityOne contracts over the reporting period, as follows: (1) someone working ten hours or less per week average would count as 0.25; (2) someone working 11-20 hours per week average would count as 0.50; (3) someone working 21-30 hours per week average would count as 0.75; and (4) someone working above 30 hours per week average would count as 1.00. This method of counting employees would allow employees who work on multiple contracts, or in multiple types of positions, to be accurately captured for their time worked on each, while also avoiding duplication (each employee cannot total more than 1.00). It would also encourage NPAs to employ individuals with the most intensive needs, who, current data shows, tend to work less than 40 hours per week. Finally, this methodology is similar to the way NPAs currently track direct labor hours and thus would minimize the administrative burdens imposed by new ratio requirements.

#### *Additional Details Regarding the Recommended Ratio Formulas*

- Ratio II: Any NPAs operating contracts where employees *only* perform work from home would be exempt from counting those employees in calculating Ratio II.
- Category A: An NPA may subtract from (A) any employee who works alone (*i.e.*, does not have coworkers who do the same job during the same period of time during the day) if an employee without a disability doing the same job would also work alone. These would be jobs filled by one employee (or one employee per shift).

- Category B: An NPA may include in (B) any employees without disabilities who are not employed by the NPA, but who physically work alongside any NPA employees in the (A) category, doing the same jobs as those employees (and are also not their supervisors, managers, or service providers).
- Category D: NPAs may count individuals whom they assisted to obtain positions in CIE as 1.00 FTE only so long as the individuals are no longer employed by the NPA. If an individual obtains a position in CIE and also remains employed by the NPA, the NPA may only count the individual under “D” (with the appropriate fraction of FTE) if the individual is working at least 20 hours per week in CIE. This is to incentivize NPAs to maximally assist their employees with career development and with obtaining and retaining jobs in the competitive labor market, when they so choose, with more than nominal weekly hours and compensation, rather than incentivizing NPAs to retain the financial and program benefit of the labor of employees who would instead prefer to work at their full capacity in the community.
- Employees who are currently working on both AbilityOne contracts as well as non-AbilityOne positions at the NPA in segregated settings should be excluded from the ratios by the end of the phase-in period recommended and described below. NPAs would be encouraged to use the phase-in period to shift these employees fully onto AbilityOne contracts or into CIE.

### *Summary of Recommended Ratios*

This dual-ratio recommendation would help ensure more integration of non-supervisory employees with and without disabilities by removing the current ratio’s barrier to integrated work settings (Ratio II), while at the same time encouraging the promotion and hiring of employees with disabilities into supervisory, management, executive, and directorial positions within NPAs, as well as encouraging NPAs to assist employees who want to work in the community to transition into competitive and integrated non-AbilityOne jobs that fit their interests and skills (Ratio I). Rather than incentivizing NPAs to eliminate jobs for people with disabilities or hire only additional people without disabilities, as merely reducing the current 75 percent requirement might, this recommendation would enable NPAs to maximize employment of people with disabilities, both in the AbilityOne Program and in the competitive labor market, and incentivize their employment at all levels of the NPAs.

### ***B. Qualitative Reporting Requirements and Technical Assistance***

The two new ratio requirements recommended above, while establishing the right incentives, will not by themselves ensure that the employment opportunities the AbilityOne Program offers are in integrated settings and offer competitive wages. Thus, the Subcommittee and Panel continue to recommend<sup>1</sup> that NPAs be required to report to the CNAs and the U.S. AbilityOne Commission additional information that would assist compliance staff in determining whether NPAs’ AbilityOne work settings and compensation are integrated and competitive, respectively,

---

<sup>1</sup> See Panel’s Second Report to Congress, at page 36.

as defined by relevant disability rights laws and regulations.<sup>2</sup> It should be noted that under the Rehabilitation Act, the responsibility to determine whether an employment setting is “competitive integrated employment” under the statute and regulations, for purposes of whether it constitutes an “employment outcome”, as that term is defined at section 7(11) of the Rehabilitation Act, under the Vocational Rehabilitation program, belongs to State vocational rehabilitation agencies. The requirements of JWOD are separate and, even if amended, would not change the authority of State vocational rehabilitation agencies to make this determination for referral and service funding purposes. However, the requirements proposed here would aim to be consistent with the definitions under the Rehabilitation Act and the ADA and their regulations, as well as relevant Medicaid regulations, assisting NPAs in maintaining integrated employment settings.

In addition, the Panel recommends that the CNAs be required to provide technical assistance regarding such reporting requirements to all NPAs, as well as to provide ongoing technical assistance to all NPAs regarding providing, and building capacity to provide, career exploration, job discovery, benefits counseling, and supported and customized employment services. Such technical assistance would support NPAs in complying with new reporting requirements, as well as enable them to maximize their ability to assist employees with disabilities in obtaining and retaining jobs in the community that fit their preferences and skills.

To develop and implement the reporting requirements, the Panel recommends that a committee of representatives with expertise in disability rights law and disability employment policy (specifically, CIE),<sup>3</sup> along with representatives from the U.S. AbilityOne Commission, be created to: determine what information NPAs must report;<sup>4</sup> set specific timelines and processes for U.S. AbilityOne Commission review of NPA reporting; recommend the number of any additional compliance staff the U.S. AbilityOne Commission would need in order to adequately review and ensure NPAs’ compliance with the requirements, along with their required qualifications; and recommend technical assistance methods and content to be used by the CNAs to provide to NPAs. Once the committee completes these tasks, the U.S. AbilityOne

---

<sup>2</sup> See 29 U.S.C. § 705(5)(A)-(C) (Rehabilitation Act); 42 U.S.C. §§ 12132, 12182(b)(1)(B) (ADA); 28 C.F.R. §§ 35.130(d), 36.203(a) (ADA regulations), 41.51(d) (Rehabilitation Act Title V regulation); 34 C.F.R. § 361.5(c)(9) (Rehabilitation Act Title I (Vocational Rehabilitation program regulation)); 41 C.F.R. § 51-10.130(d) (AbilityOne Program regulation); 42 C.F.R. §§ 441.301(c)(4)-(5), 441.710(a)(1)-(2) (Medicaid program regulations); 28 C.F.R. pt. 35, app. B, at 709 (2019) (ADA appendix to implementing regulation).

<sup>3</sup> The committee should have representatives from the Department of Labor’s Office of Disability Employment Policy and Employment and Training Administration, the National Council on Disability, the Department of Health and Human Services’ Centers for Medicare and Medicaid Services’ Division of Long Term Services and Supports, the Department of Health and Human Services’ Administration for Community Living, and the Department of Education’s Rehabilitation Services Administration.

<sup>4</sup> For examples of the types of information the committee may consider requiring NPAs to report, such as numbers of employees with and without disabilities in each job category, job descriptions for each job category including descriptions of interactions between employees on the job, and descriptions of physical work environments and how they allow for interaction between colleagues with and without disabilities, see the Panel’s Second Report to Congress, at page 36.

Commission would be required to immediately implement the policies and requirements crafted by the committee.

### ***C. Phase-In of Recommended Program Requirements***

The Subcommittee and Panel continue to recommend that this proposal be implemented using a phase-in approach,<sup>5</sup> such that NPAs have sufficient opportunity to transition to compliance with new program requirements. The Panel recommends the following timeframes for compliance and consequences for noncompliance: (1) NPAs found noncompliant with new program requirements per the first compliance review under these requirements should be required to remedy noncompliant settings or wages within 18 months of the finding of noncompliance; (2) NPAs found noncompliant with the requirements per any subsequent compliance review should be required to remedy noncompliant settings or wages within 12 months of the finding; and (3) any NPA found noncompliant in more than two consecutive compliance reviews under these requirements should be disqualified.

#### **Implementation Status:**

The Subcommittee is continuing to solicit feedback from stakeholders regarding this recommendation, but anticipates that during the next reporting period, the Panel recommendation will be prepared and submitted as a legislative package.

**Panel Recommendation 8:** Amend the JWOD 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.

#### **Background:**

Section 898(c)(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 DOD contracts.

Subcommittee Four continues to support the Panel recommendation that the definition in 41 U.S.C. §§ 8501(5) and (8) be amended as set forth in the Panel’s Second Report to Congress.

#### **Implementation Status:**

Subcommittee Four expects that this recommendation’s proposed statutory language be included in the forthcoming legislative package that will also include proposed statutory language consistent with Recommendation 6 above.

---

<sup>5</sup> See Panel’s Second Report to Congress, at page 36.

## **Subcommittee Six: Acquisition and Procurement**

Lead Organization: Air Force, Department of Defense

### **Recommendations**

9. Develop policy and implement business practices that provide sufficient oversight and transparency. Create incentives for inclusion and mentoring of smaller NPAs, and for veteran employment opportunities in DoD contracts with AbilityOne NPAs. [Complete]
10. Develop policy establishing NPA recommendation/allocation procedures.
11. Establish business rules for competition and assignment of work among AbilityOne Program NPAs.
12. Establish penalties if a CNA or NPA does not follow policies and procedures.
13. Reduce the existing gaps and deficiencies in CNAs' processes. [Complete]
14. Revise 41 CFR 51 to include information regarding undesignation of CNAs and deauthorization of NPAs as the authorized source on the PL.

**Panel Recommendation 9:** Develop policy and implement business practices that provide sufficient oversight and transparency. Create incentives for inclusion and mentoring of smaller NPAs, and for veteran employment opportunities in DoD contracts with AbilityOne NPAs.

### **Background:**

Section 898(c)(6) – recommend ways the DoD and the Commission may explore opportunities for competition among AbilityOne NPAs or CNAs and ensure equitable selection and allocation of work.

The Cooperative Agreements established between the U.S. AbilityOne Commission and the CNAs incorporated mechanisms to increase transparency in CNA business practices and in 2016 established a Program Management Office 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.

### **Implementation Status:**

Recommendation 9 is closed and marked as complete based on similarities to Recommendations 10 and 11.

### **Resource Requirement (if applicable):**

Recommendation 10 will address resource requirements.

**Panel Recommendation 10:** Develop policy establishing NPA recommendation/allocation procedures.

**Background:**

Section 898(c)(6) – recommend ways the DoD and the Commission may explore opportunities for competition among AbilityOne NPAs or CNAs and ensure equitable selection and allocation of work. The Panel recognizes and is pleased that the Commission OIG is presently conducting two performance audits related to this area.



The USNS Comfort arrives in New York Harbor on March 30, 2020, to support national, state and local response to COVID-19. The hospital ship provided approximately 1,000 beds for urgent care patients not infected with the virus, relieving pressure on local hospital systems. People with disabilities employed by VersAbility Resources, an AbilityOne-participating nonprofit in Hampton, VA, loaded the ship with enough meals to feed the 1,000-plus crew members for three weeks.  
Photo by Kenneth Wilsey, FEMA

OIG initiated the performance audit of the CNA Selection of NPAs for Project Assignment and Allocation of Orders. The objective is to assess the extent to which the implementation of the project assignment and allocation process by the CNAs is effective and follows applicable laws and regulations as well as established policies and procedures. This performance audit is looking at the Commission and CNAs' policies and procedures as well as best practices for making recommendations to the Commission for NPAs' project assignments and allocation of orders. The assignment of projects to Base Supply Centers (BSC) will be included as part of the audit scope.

OIG is also conducting the performance audit of the PL Addition Process, Procedures, and Practices. The overall objective is to determine whether the PL addition process is transparent and performed efficiently, effectively, and in compliance with applicable laws, regulations, and policies. The audit will assess the effectiveness of the policies, procedures, and practices employed by the Commission when approving the addition or removal of products and services from the PL, as well as CNA processes for producing and providing PL addition packages.

These reviews will be instrumental for a variety of needs and improvements with 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 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.”

The CNA’s recommendation package is submitted to the Commission for a vote to determine if additional work should be added to the PL. The current format of the CNA’s recommendation 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 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 fiscal year. Per 41 CFR 51-4.3, each NPA must submit to its CNA, by November 1 of each year, two completed copies of the appropriate Annual Certification (Committee Form 403 or 404) covering the fiscal year ending the preceding September 30. The U.S. AbilityOne Commission has a regulation that requires CNAs to submit Annual Reps and Certs for all NPAs to the Commission staff no later than December 1 of each year. The Commission’s Cooperative Agreements with the CNAs includes a metric that ensures compliance with the regulation.

**Implementation Status:**

A Subcommittee Six Policy Working Group was established in February 2020 and is comprised of representatives from Air Force, Army, Navy, OUSD(A&S)/DPC, and the U.S. AbilityOne Commission staff. This working group has been operating to requirements of section 898(c)(6) of the FY17 NDAA to “recommend ways the DoD and the Commission may explore opportunities for competition among AbilityOne NPAs or CNAs and ensure equitable selection and allocation of work.” The working group meets almost weekly to establish a source recommendation process, which has been mapped out to completion.

Currently, the CNAs perform the competition that leads to the recommendation of the NPA to the U.S. AbilityOne Commission for addition to the PL; there is no policy or process for routine recompletions within the program. While SourceAmerica, who holds the majority of service contracts, submits an annual report to AbilityOne that identifies the results of competitions within their network of NPAs based on responses to their Opportunity Notices (ONs), the U.S. AbilityOne Commission does not have visibility into the competition results on individual PL additions. Currently SourceAmerica recommends the NPA based on highest technical rating and past experience only. The Fair Market Price (FMP) is determined after selection and negotiated amongst the CNA, the NPA and the customer.

The new process allows for more transparency and involvement from the Federal customer in the recommendation of the NPA to the U.S. AbilityOne Commission. This process targets new

work to the program and recompetition for service contracts valued at \$10 million or greater annually and **performed on Federal installations/properties**. The new process will focus on a best value with trade-off analysis that will consider a Social Impact proposal, a Technical proposal, and Price. The CNA will evaluate the Social Impact proposal and the Federal customer evaluates the Technical proposal and Price. The results of the proposal analysis are provided to a member of the U.S. AbilityOne Commission staff designated as the NPA Recommendation Authority (NPARA) who prepares the NPA Recommendation Document (NPARD). The NPARD is provided to the U.S. AbilityOne Commission for vote to complete the allocation process.

The results of the new proposed process will maximize competition within the Program and ensure equitable selection and allocation of work. This includes maximizing job opportunities for persons with disabilities, including veterans with disabilities, through the Social Impact proposal that will identify participation levels for these individuals. It will also consider the size of the NPA, mentorship programs, teaming opportunities, contributions to the community, and the quality of the employment of individuals with disabilities. The Technical proposal will focus on the NPAs' capability to perform the Performance Work Statement (PWS) and the Price proposal will focus on the cost to the customer for the effort. By evaluating price as part of the recommendation process, the customer could see cost savings while still considering the social impact of creating jobs for persons with disabilities. The new evaluation process that leads to the recommendation will be transparent to the U.S. AbilityOne Commission since they will be provided the source recommendation documentation, the NPARD.

The working group briefed Subcommittee Six on August 20, 2020, the CEO Competition Roundtable (representatives from numerous NPAs in the AbilityOne Program) on September 3, 2020, and the CNA SourceAmerica on October 28, 2020. The working group intends to brief the other two CNAs (NIB and American Foundation for the Blind) in November 2020 prior to obtaining endorsement from the U.S. AbilityOne Commission, planned for December 2020, and prior to creating the new source recommendation AbilityOne policy. Letters (provided in Appendix D), were submitted to the Panel Chair (PD, DPC), from interested parties that will be impacted, addressing the recommendations in the Panel's Second Annual Report to Congress issued in January 2020. The letters were submitted by NAEPB on July 6, 2020, by NIB on August 3, 2020, and by SourceAmerica and the NCSE on September 30, 2020. The specific comments relating to the recommendations from Subcommittee Six were considered by the working group and addressed at the individual meetings with the parties. In addition, separate comments were provided by the CEO Competition Roundtable after their meeting on September 30, 2020; those comments were considered in the recommendation in this report.

Also, the mechanisms within the existing Cooperative Agreements and the implementation of the new source recommendation process will increase the Commission's transparency and oversight in the CNAs' processes. The U.S. AbilityOne Commission can then establish a Cooperative Agreement metric that measures compliance with the mandatory NPA Recommendation policy that influences the CNAs' ceiling fee determination. In addition, the policy working group is developing Source Limitation policy that would require that any restrictions on all NPAs having the ability to apply to Opportunity Notices issued by the CNA must be approved by the U.S. AbilityOne Commission staff. The CNA would have to justify the restriction to full competition,

to the satisfaction of the AbilityOne staff, to help ensure equitable selection and allocation of work.

**Resource Requirement (if applicable):**

- Estimated funding needed: \$1.75 million annually (salaries \$1.30 million, benefits \$0.34 million, and other \$0.11 million)
- Personnel: Eight FTEs (two Competition Leads, two Attorney Advisors, two Contract Specialists and two Price Analysts)
- Other: IT, workspace furniture, rent, travel, training, supplies, etc.

**Panel Recommendation 11:** Establish business rules for competition and assignment of work among AbilityOne Program NPAs.

**Background:**

Section 898(c)(6) – recommend ways the DoD and the Commission may explore opportunities for competition among AbilityOne NPAs or CNAs and ensure equitable selection and allocation of work.

The Commission has developed interim policy for competition and re-competition, and it is in the process of revising the CFR to more clearly acknowledge Commission authority to reallocate work. The CFR gives the Commission authority to designate CNAs and to authorize and de-authorize NPAs for performance, but the CFR revisions are necessary to further clarify the Commission’s authority to remove underperforming NPAs.

In accordance with Section 5(f) of Commission Policy 51.301 The Commission retains the authority, on an exception basis, to direct CNA(s) 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 (as set forth in the FAR) to document poor performance and issue a cure notice or terminate contracts; however, before terminating a contract or cancelling an order, the contracting officer is directed in FAR 8.705-4(c) to “refer the matter for resolution first to the [CNA] and then, if necessary, to the Commission.” If a Contracting Officer determines he or she must cancel an order/terminate a contract, they must notify the CNA and, if practical, request a reallocation of the order pursuant to FAR 8.705-4(d). The CNA must comply with AbilityOne Policy 51.301 and coordinate with the Commission and the Contracting Officer to compete a requirement already on the PL in order to recommend a new NPA.

When work is reallocated within the AbilityOne Program, the jobs of incumbent employees with disabilities need to be protected. The Commission does not have any formal business rules in place that protect disabled employees when work is reallocated; though in practice, the existing workforce is interviewed, their disability documentation is reviewed, and they are normally offered employment by the successor NPA.

**Implementation Status:**

Same as Recommendation 10. This new source recommendation process addresses not only developing policy establishing NPA recommendation/allocation procedures, but also implements business practices that provide sufficient oversight and transparency to the U.S. AbilityOne Commission and the Federal customer. The new process creates incentives for inclusion and mentoring of smaller NPAs, and for veteran employment opportunities in DoD contracts with AbilityOne NPAs.

**Resource Requirement (if applicable):** None.

**Panel Recommendation 12:** Establish penalties if a CNA or NPA does not follow policies and procedures.

**Background:**

Section 898(c)(6) – recommend ways the DoD and the Commission may explore opportunities for competition among AbilityOne NPAs or CNAs and ensure equitable selection and allocation of work.

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 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 (KPIs) and metrics that must be met. CNAs that do not comply will receive an unsatisfactory score for the measure in question, and may 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 requirements, the Commission will place them on probation and allow them the opportunity to brief the Commission on their corrective action plan. If the NPAs fails to comply with the corrective action plan, they can be removed from the AbilityOne Program.

The CNA Corrective Actions/Penalties currently in place (Ref. SourceAmerica Four Step Process) are:

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

The Commission's mechanism for enforcing policies and procedures is the Cooperative Agreement and QASP, including four KPIs: (1) Employment Growth, (2) AbilityOne Program Administration, Oversight, and Integrity, (3) NPA Support, Assistance, and Development, and (4) Training and Strategic Communications.

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

Currently, DoD contracts in the AbilityOne Program do not require that the JWOD statute or 41 CFR 51 requirements are incorporated into the resultant contract, which makes it difficult to mandate NPA compliance with the unique requirements of the AbilityOne Program. This results in the U.S. AbilityOne Commission not having the authority to penalize the NPAs for non-compliance with policies and procedures. The Panel recommends establishing DFARS language mandating the implementation of the statutory and regulatory requirements in contract provisions which would be required by the regulations to be included in the contract. Such regulatory implementation would enforce the requirement for NPAs to comply.

**Implementation Status:**

The DFARS needs to include language that mandates implementing the JWOD statute and corresponding CFR language in DoD AbilityOne contracts. DPC cannot open a DFARS Case to create this language until 41 CFR 51 is updated in accordance with Recommendation 14 (status provided in that section of the report). It is estimated it will take 24 months after the update to the CFR that the DFARS Case may be fully executed.

Subcommittee Six considered other possible ways to penalize a CNA or NPA for noncompliance policies and procedures, but determined that the executed Cooperative Agreements with the CNAs met that requirement. If a CNA does not meet their performance metrics in their Cooperative Agreements, the agreed-to Ceiling Fee set by the U.S. AbilityOne Commission may be reduced.

**Resource Requirement (if applicable):**

None. The Defense Acquisition Regulations Council (DARC) and U.S. AbilityOne Commission staff have adequate resources to execute this recommendation.

**Panel Recommendation 13:** Reduce the existing gaps and deficiencies in CNAs' processes.

**Background:**

Section 898(c)(6) – recommend ways the DoD and the Commission may explore opportunities for competition among AbilityOne NPAs or CNAs and ensure equitable selection and allocation of work.

The U.S. 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 only receives the documentation when there is an appeal.

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 will 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/request for proposal 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 Subject Matter Experts (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.

**Implementation Status:**

Recommendation 13 is closed and marked as complete based on similarities to Recommendation 12.

**Resource Requirement (if applicable):**

Recommendation 12 addresses resource requirements.

**Panel Recommendation 14:** Revise 41 CFR 51 to include information regarding undesignation of CNAs and deauthorization of NPAs as the authorized source on the PL.

**Background:**

Section 898(c)(6) – recommend ways the DoD and the Commission may explore opportunities for competition among AbilityOne NPAs or CNAs and ensure equitable selection and allocation of work.

§51-5.2 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 CFR 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 (CFR §51-5.5), has the exclusive authority to set the 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) 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 employees with disabilities if an NPA loses its authorization to perform an AbilityOne contract(s) 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.

### **Implementation Status:**

The U.S. AbilityOne Commission is preparing to publish a proposed rule for revisions to 41 CFR 51 (RIN 3037-AA14) as referenced in the Commission's Semiannual Regulatory Agenda published in the Federal Register on 26 August 2020 (85 FR 52761). The revised 41 CFR 51 will clarify the authority of the U.S. AbilityOne Commission to un-designate CNAs and to de-authorize NPAs on the PL. The CFR revision must go through the public comment process before it goes into effect. It will identify maximum contract performance periods of ten years, before performing market analysis for potential recompetition, for service contracts with the same NPA that exceed an annual value of \$10 million. The revised CFR will establish an arbitration process similar to the Alternate Disputes Resolution (ADR) process identified in FAR 33.214 for disputes within the program. In addition, the revised CFR will establish protections for disabled employees transferring between NPAs based on the results of recompetition.

**Resource Requirement (if applicable):**

None. The U.S. AbilityOne Commission staff has adequate resources to execute this recommendation.

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

Lead Organization: Defense Logistics Agency, Department of Defense

**Recommendations**

15. Update the PLIMS to reflect detailed information, improve the search functions to enable a more user-friendly interface, and be usable to outside agencies. [Complete]
16. Deploy an IT solution either 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.
17. Build a centralized pricing database, require fair market pricing and prevailing wage documentation in contracts with Federal customers.
18. 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. [Complete]
19. Pursue DFARS (PGI language) to detail how to do business with the AbilityOne Program.
20. Recommend change to allotted timeframe currently required by the Administrative Procedures Act when adding products or services to the PL.
21. 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. [Complete]

**Panel Recommendation 15:** Update the PLIMS to reflect detailed information, improve the search functions to enable a more user-friendly interface, and be usable to outside agencies.

**Background:**

Section 898(c)(7) – recommend changes to business practices, information systems, and training necessary to ensure Commission and DoD compliance with regulations for use of the PL.

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 PL for mandatory source items. A promising IT solution has been identified and demonstrated for several AbilityOne customers.

**Implementation Status:**

The Commission awarded a contract to implement an enhanced interface to the PLIMS system that will show buyers more quickly and clearly the products and services that are on the PL, along with current pricing information. This tool is under construction and will continue to be developed in FY 2021 with additional data and product photos. Next steps include testing and user training, before the system is debuted for DoD and other AbilityOne customers. After roll-out, this interface will make it faster and easier for DoD and other customers to check the PL and to comply with its mandatory source purchasing requirements.

**Resource Requirement (if applicable):**

Approximately \$250,000 is needed in FY 2021 to complete the development, testing, and training with contractor support. The Commission must also ensure the product and service information loaded into the tool is correct and kept up-to-date, and that a knowledgeable staff member is available to answer questions or provide customer assistance. Maintaining the PLIMS interface tool and customer support requires an additional FTE for the Commission's Business Operations team.

**Panel Recommendation 16:** Deploy an IT solution either 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.

**Background:**

Section 898(c)(7) – recommend changes to business practices, information systems, and training necessary to ensure Commission and DoD compliance with regulations for use of the PL.

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

**Implementation Status:**

Subcommittee Seven is reviewing information about DoD's portfolio approach to electronic contract writing systems, and is capturing questions regarding how the PL information can be integrated or made available to the systems' users most efficiently. The ongoing consolidation and modernization of existing systems will facilitate this objective. The PLIMS interface tool described in Recommendation 15 will be sufficiently developed in FY 2021 to support demonstrations and discussions with the DoD Contracting eBusiness office regarding linkages between PL data and the electronic contract writing systems used by DoD acquisition professionals. Subcommittee Seven will meet with the DoD Contracting eBusiness office in the first half of FY 2021 to develop a strategy and milestones to greater inclusion of or connectivity to PL data that will facilitate DoD purchases that are consistently compliant with Federal Acquisition Regulation (FAR) Subpart 8.7.

**Resource Requirement (if applicable):**

Additional investments will be required to develop the PLIMS interface tool in a manner that supports connectivity with DoD electronic contract writing systems. Subcommittee Seven will identify the estimated resource requirements after discussing a strategy and milestones to greater inclusion of or connectivity to PL data with DPC’s Contracting eBusiness office in FY 2021.

**Panel Recommendation 17:** Build a centralized pricing database, require fair market pricing and prevailing wage documentation in contracts with Federal customers.

**Background:**

Section 898(c)(7) – recommend changes to business practices, information systems, and training necessary to ensure Commission and DoD compliance with regulations for use of the PL.

Subcommittee Seven consulted with OFPP about other government wide databases and web-based tools. 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 has a website that provides wage determination rates applicable to Federal contracts under the Service Contract Act.

**Implementation Status:**

Subcommittee Seven facilitated demonstration meetings between GSA’s Business Intelligence Branch of the Office of Customer Accounts and Research/Federal Acquisition Service and various AbilityOne stakeholders to increase familiarity with the data, tools and dashboards available to Federal users in the Acquisition Gateway. Barriers to existing tools’ effectiveness, such as inconsistent nomenclature for AbilityOne products and NPAs, have been identified for remedial action. Subcommittee Seven is exploring the creation of a unique code or identifier for AbilityOne contracts, and/or a dropdown menu for AbilityOne data fields, to standardize and allow the data to be consolidated. Upon improving the quality of and access to AbilityOne data in existing government wide databases and tools, the Panel recommends educating users about the data and tools available, which fulfill the information needs without requiring additional resources to develop or maintain new systems.



Austin Lighthouse for the Blind tripled the number of employees like Brandon Colvin working on hand sanitizer and soap products for AbilityOne customers. Since the COVID-19 crisis began in March 2020, the Austin Lighthouse has shipped more than 13 million bottles of hand sanitizer in response to unprecedented demand. The AbilityOne-participating nonprofit also increased its shipping lines production, tripled employee counts, hired more temporary workers, and invested in more facility equipment.

**Resource Requirement (if applicable):**

Upon approval, programming support is needed to create a unique code or identifier for AbilityOne contracts, and/or a dropdown menu for AbilityOne

data fields in existing databases and tools, to standardize and allow the data to be consolidated. As these databases are operated by other Federal agencies, not the U.S. AbilityOne Commission and not necessarily DoD, the programming may be incorporated into planned system enhancements and updates to avoid or minimize the resources needed. Additionally, communication and training are needed to increase awareness and understanding of the functionality of the existing government-wide databases, tools, and websites. Subcommittee Seven and the Panel recommend that the communication and training be accomplished with existing DoD and AbilityOne resources.

**Panel Recommendation 18:** 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.

**Background:**

Section 898(c)(7) – recommend changes to business practices, information systems, and training necessary to ensure Commission and DoD compliance with regulations for use of the PL.

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, as appropriate.

**Implementation Status:**

Recommendation 18 is closed and marked as complete. On October 8, 2020, the Principal Director, DPC, directed DoD Components to establish their own ABOR programs with a target implementation date of October 1, 2021. DPC, the U.S. AbilityOne Commission, and the Air Force will host a planning meeting in January 2021 with the other DoD Components. DPC and the Commission will monitor and support the roll-out of the ABOR programs during FY 2021.

**Resource Requirement (if applicable):**

Minimal resources are required to implement this recommendation. Components should designate ABORs from existing staff. Meeting and/or training costs can be met leveraging existing resources.

**Panel Recommendation 19:** Pursue DFARS (PGI language) to detail how to do business with the AbilityOne Program.

**Background:**

Section 898(c)(7) – recommend changes to business practices, information systems, and training necessary to ensure Commission and DOD compliance with regulations for use of the PL.

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

**Implementation Status:**

Subcommittee Seven is working with Subcommittee Six on a joint DFARS case to address the recommendations related to doing business with the AbilityOne Program. A request for Frequently Asked Questions from contracting officers was posted on the DAU website. In FY 2021, Subcommittee Seven will host one or more webinars in conjunction with DAU on best practices in contracting with AbilityOne.

**Resource Requirement (if applicable):**

None.

**Panel Recommendation 20:** Recommend change to allotted timeframe currently required by the Administrative Procedures Act (APA) when adding products or services to the PL.

**Background:**

Section 898(c)(7) – recommend changes to business practices, information systems, and training necessary to ensure Commission and DoD compliance with regulations for use of the PL.

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.

**Implementation Status:**

To shorten the PL cycle time, Subcommittee Seven is coordinating with Subcommittee Four on the development of a legislative proposal to modernize the JWOD Act, and is working with the Commission’s General Counsel in the interim to determine whether there are pathways to a shorter PL timeline within the current statutory authority. Subcommittee Seven is also pursuing efforts to increase process efficiency, such as Indefinite Delivery/Indefinite Quantity (IDIQ) contracts and Lean Six Sigma. This includes that the Subcommittee will evaluate data on all factors that contribute to the length of the approval time for additions to the PL.

**Resource Requirement (if applicable):**

None.

**Panel Recommendation 21:** 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.

**Background:**

Section 898(c)(7) – recommend changes to business practices, information systems, and training necessary to ensure Commission and DoD compliance with regulations for use of the PL.

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.

**Implementation Status:**

Recommendation 21 is closed and marked as complete. Panel Recommendation 21 was implemented through a memorandum signed by the Principal Director, DPC on October 11, 2019. The memorandum, highlighting National Disability Employment Awareness Month, required the acquisition workforce to comply with section 508. The U.S. 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.

**Subcommittee Eight: Employment and Veterans Eligibility**

Lead Organization: U.S. AbilityOne Commission

**Recommendations**

22. Change the Commission's regulation for initial qualification for NPAs to participate in the AbilityOne Program to include employment criteria of at least minimum wage comparable to co-workers, a work setting that is inclusive of people with and without disabilities, and opportunities for advancement.
23. Develop actions to ensure opportunities for CIE outcomes of individuals who are blind or who have significant disabilities, which include veterans and the referrals from other Federal agencies.
24. Require CNAs to develop a certificate-based training program for individuals certifying an individual's eligibility to work on AbilityOne Program contracts, consider accepting electronic medical documents securely transmitted from Federal and State vocational rehabilitation agencies, and adopt a standardized form approved by OPM.
25. Recommend criteria for veterans with disabilities to be eligible for employment opportunities through the programs of the U.S. AbilityOne Commission that consider the definitions of disability used by the Secretary of Veterans Affairs and the U.S. AbilityOne Commission.

Following the second Report to Congress, the Panel Chair combined Subcommittees Three and Five to form Subcommittee Eight, Employment and Veterans Eligibility, to apply a comprehensive approach to increasing employment opportunities for veterans and non-veterans. Subcommittee Eight was divided into two subgroups, Subcommittee 8a - Employment and Subcommittee 8b - Veterans Eligibility.

Recommendations 22, 23, and 24 were aligned under Subcommittee 8a - Employment. These three Panel recommendations were modified to reflect strategic changes that further advance the Commission initiative to modernize the AbilityOne Program to be consistent with current employment policies, regulations, and statutes.

Recommendation 22 was previously worded as: 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 NPAs. The Subcommittee determined that Recommendation 22 should be expanded to encompass more than just case management.

Recommendation 23 was previously worded as: 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. The Subcommittee modified this recommendation to shift the focus from eligibility determination to providing services that lead to CIE.

Recommendation 24 was previously worded as: Develop a certification/validation program for individuals certifying the Individual Eligibility Evaluation (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. This recommendation was changed to emphasize the role of the CNAs in a more standardized eligibility determination process.

Recommendation 25 was aligned under Subcommittee 8b-Veterans Eligibility. Recommendation 25 was previously worded as: 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. The Subcommittee determined that with the recent approval of the Center for Business Acceleration (CBA) and AbilityOne Professional Skills Apprenticeship program by the Department of Labor, recent collaboration and discussions with the Program Manager of the Department of Defense SkillBridge program, and the fact that there are over 3,000 wounded, ill and injured veterans working in the program today, it would make sense to revert to the original Panel recommendation.

**Panel Recommendation 22:** Change the Commission’s regulation for initial qualification for NPAs to participate in the AbilityOne Program to include employment criteria of at least minimum wage comparable to co-workers, a work setting that is inclusive of people with and without disabilities, and opportunities for advancement.

**Background:**

Section 898(c)(8a) – recommend actions to ensure opportunities for employment of veterans with significant disabilities, and for employment of individuals who are blind or who have significant disabilities.

Subcommittee Eight is working towards a set of actions that ensures employment opportunities offered to individuals who are blind or who have significant disabilities are consistent with the individuals’ vocational rehabilitation needs and goals, with a process in place to document that employees’ informed choice and self-determinations are conducted at least annually by the AbilityOne qualified NPA employers. Previously, this recommendation focused on the use of case management as a technique to accomplish the objective as currently stated. This recommendation has been broadened to recognize that NPAs may employ various techniques to achieve the desired outcomes.

The U.S. AbilityOne Commission issued a declaration to CNAs designated in the JWOD Act in February 19, 2019, calling for the elimination of Fair Labor Standards Act Section 14(c) sub-minimum wage certificates in NPAs participating in the AbilityOne Program. As a result, SourceAmerica is investing resources toward a transition support program, which includes financial assistance to transitioning nonprofits and enhanced productivity engineering support.

**Implementation Status:**

Based on input from the Department of Education and other experts, the Subcommittee recommends the Panel seek to change the Commission’s regulation for initial qualification for NPAs to participate in the AbilityOne Program. The Subcommittee developed an interim change to Commission policy that strengthens the criteria for NPAs to obtain initial qualification or maintain qualification. This interim policy will apply to all new NPA initial qualification requirements and include a time limit requirement for existing NPAs to include a demonstrated process by which those NPAs assess and document employee individualized goals and opportunities for advancement on an annual basis. To make this change permanent and enforceable, the Subcommittee will present a recommended regulatory change to the Panel in 2021.

The recommended employment criteria that complement the Commission’s transition include guidelines established within the Rehabilitation Act, as amended by WIOA, addressing at least minimum wage comparable to coworkers, in a work setting that is inclusive of people with and without disabilities and that presents opportunities for advancement.



Industries of the Blind, in Greensboro, NC, is among the AbilityOne nonprofit agencies manufacturing masks for DOD.

**Resource Requirement (if applicable):**

(1) Funding for FY 2021 in the amount of \$550,000 for two Commission staff positions qualified as Vocational Rehabilitation Specialists and a Deputy Director of Veterans Employment, to focus on career opportunities and career ladders for the Commission’s Directorate of Veterans Employment and Initiatives. These positions must be supported with an additional \$100,000 in funding for travel, training, space, and equipment in FY 2021.

(2) Funding in future fiscal years to sustain and support these positions, at a minimum.

**Panel Recommendation 23:** Develop actions to ensure opportunities for CIE outcomes of individuals who are blind or who have significant disabilities, which include veterans and the referrals from other Federal agencies.

**Background:**

Section 898(c)(8a) – recommend actions to ensure opportunities for CIE of veterans with significant disabilities and for the employment of individuals who are blind or who have significant disabilities, including veterans and non-veterans referred by other Federal agencies.

The U.S. AbilityOne Commission, CNAs, and NPAs are eager to hire veterans and have developed a pilot program to research the Panel’s proposed definition of “other disabled” and collaborate with state Veteran Readiness and Employment offices on medical interpretation qualifications to maximize veteran participation in the programs.

Additionally, one CNA and the NPAs who testified before the Panel subcommittees agreed that establishing a veteran-focused CNA might be an effective way to further grow and modernize the AbilityOne Program and spearhead discussions on the intersection of disability among severely disabled veterans’ transition to civilian employment. Veteran-centric NPAs’ wage determination rates are commensurate with those across the Federal government and employment opportunities include various technical, adaptive, collaborative, and leadership positions in a diversified and inclusive quality work environment.

**Implementation Status:**

Subcommittee Eight appreciates Congressional interest in creating a vehicle for employment opportunities for returning ill and injured service members and improving the quality work environment for AbilityOne Program employees. The Subcommittee sought input from several of the NPAs and the U.S. AbilityOne Commission’s designated CNAs in the refinement of this recommendation and the courses of action needed for implementation.

In 2021, the Subcommittee will recommend to the Panel that the U.S. AbilityOne Commission research establishing a new CNA with NPAs that are competitive integrated employers, focused on knowledge-based employment opportunities that require professional skills, business competencies, apprenticeships, and certification or credentials in services needed by the Federal Government.

The Subcommittee will also recommend to the Panel a pilot placement program that includes veterans in the AbilityOne Program who experience “significant barrier(s) to employment” based on their medical illness or injury expected to last for one year or longer.

Additionally, the Subcommittee will present to the Panel a recommendation that the CNAs collaborate with the Department of Education Rehabilitation Services Administration, which oversees the State vocational rehabilitation programs that provide services to individuals with disabilities, to maximize CIE education for NPAs. Collaboration should include multiple site visits to vocational rehabilitation integrated employment work sites within the AbilityOne Program to see employee independence, integrative workforce, and competitive wages in various labor markets.

Finally, in 2021 the Subcommittee will recommend to the Panel that the Commission work with the Department of Labor’s ODEP National Expansion of Employment Opportunities Network (NEON) program to collaborate with State vocational rehabilitation agencies to educate, inform, and enhance the AbilityOne Program’s mission during the transition to competitive employment

positions for people with significant disabilities. NEON is a new ODEP initiative that partners with national disability service provider organizations to meet their needs in the field and to offer the best employment options for all individuals with disabilities, including those with the most significant disabilities. In collaboration with NEON, the Commission and the CNAs can work to establish employment networks, action plans, and policies to maximize the outcome of CIE for the AbilityOne Program.

**Resource Requirement (if applicable):**

(1) Funding for FY 2022 in the amount of \$700,000 for four Commission staff positions: two FTEs to support the Program Management Office for CNA Cooperative Agreements and two FTEs in Business Operations to work with customers and defense industry partners in the development of the strategic business plan for a veteran-focused CNA. These positions must be supported with an additional \$125,000 in funding for travel, training, space, and equipment in FY 2021.

(2) Funding in future fiscal years to sustain and support these positions, at a minimum.

**Panel Recommendation 24:** Require CNAs to develop a certificate-based training program for individuals certifying an individual's eligibility to work on AbilityOne Program contracts, consider accepting electronic medical documents securely transmitted from Federal and State vocational rehabilitation agencies, and adopt a standardized form approved by OPM.

**Background:**

Section 898(c)(3) – recommend actions to ensure opportunities for employment of veterans with significant disabilities and for the employment of individuals who are blind or who have significant disabilities

Currently, for evaluating a person with a significant disability, the evaluator must be a person or persons qualified by training and experience to assess the work potential, interests, aptitudes, and abilities of persons with disabilities.

AbilityOne Program Compliance Policy governs the IEE certification/validation process; some of the larger NPAs have formal training, certification, and validation programs for their employees who complete the IEE process, while others do not. Most of the smaller NPAs do not have sufficient training personnel to establish a formal training, certification, and validation program, although they typically complete informal training. There is a need to develop a standardized process that lends itself to program-wide compliance with oversight components.

**Implementation Status:**

In 2021, the Subcommittee will present to the Panel a recommendation for the Commission to build into the Cooperative Agreement the requirement for CNAs to establish a certificate-based training program for individuals within the NPAs verifying the IEE or, if adopted, OPM Optional Form (OF) 178, Certificate of Medical Examination. OF 178 is an approved OPM form that meets the criteria of the AbilityOne Compliance Program's current IEE requirements and supports the Panel recommendations and changes to the current IEE form.

Subcommittee Eight identified the need to revisit the IEE form to include changing the definition and terminology, identifying a suitable name for the form, and establishing a more meaningful form. The form should be *not* be revised until the modernized definitions proposed by Subcommittee Four are approved, after which OF 178 could still be used to certify eligibility for employment for individuals in the AbilityOne Program.

The Subcommittee will also recommend to the Panel that the Commission Compliance Review Policy require qualifying NPAs to maintain an Individualized Plan for Employment (IPE). The IPE would be a written plan that identifies AbilityOne Program employee employment outcomes, referred to as employment goals, the services provided to achieve the employment goals, and the requirement for the CNAs to measure progress toward the employment goals during compliance reviews on an annual basis.

**Resource Requirement (if applicable):**

None.

**Panel Recommendation 25:** Recommend criteria for veterans with disabilities to be eligible for employment opportunities through the programs of the U.S. AbilityOne Commission that consider the definitions of disability used by the Secretary of Veterans Affairs and the U.S. AbilityOne Commission.

**Background:**

Section 898(c)(5) – recommend criteria for veterans with disabilities to be eligible for employment opportunities through the programs of the U.S. AbilityOne Commission that considers the definitions of disability used by the Secretary of Veterans Affairs and the U.S. AbilityOne Commission

Subcommittee 8b was led by the 15th Sergeant Major of the United States Army and a diverse, inclusive group consisting of currently serving and former Command Sergeant Majors, Sergeant Majors, former Senior Noncommissioned Officers, and Army Fellows with Department of Veterans Affairs, Department of Labor, Department of Education, former Director of the American Legion, Department of Defense Director of the Workforce, Credential and Skill Bridge program, Department of Justice, Association of the United States Army, Defense Health Agency, Warrior Care, Soldier for Life program, U.S. Army Medical Command, Warrior Transition Unit, and Defense Logistics Agency.

The Subcommittee considered the definitions of disability used by the Secretary of Veterans Affairs and the U.S. AbilityOne Commission. The Subcommittee determined that the Department of Veterans Affairs (VA) definition of disability does not align with the current JWOD Act intent to determine employment eligibility within the AbilityOne Program. The VA assigns service members a disability rating based on the severity of their service-connected conditions. The VA uses the disability rating to determine how much disability compensation the service member will receive each month, as well as their eligibility for other VA benefits<sup>6</sup>.

---

<sup>6</sup> The VA does not have or use vernacular that would describe disabilities such as “minor” or “severe” since these words are more often used to describe health-related or diagnostic descriptions. VA uses the term “disabilities” to

The AbilityOne Program uses the current JWOD definition of disability to determine eligibility to work in the AbilityOne Program.

The Subcommittee determined that the current criteria to work within the AbilityOne Program is straightforward and does not prevent qualified veterans from seeking employment in the AbilityOne Program. The Subcommittee also determined that the VA's primary purpose to identify and compensate service-related disabilities should not and does not need to be utilized to qualify eligible participants in the AbilityOne Program. However, Subcommittee Eight does support changing the current JWOD definition of "other severely disabled" in accordance with Subcommittee Four's recommendations.

Based on the Commission's 2019 Representations and Certifications document, there are more than 7,000 veterans currently employed in the AbilityOne Program, of whom approximately 3,000 meet the current JWOD definition and work in a direct labor role. The Subcommittee's overall assessment is that there is no need for additional criteria concerning either of the disability definitions used by the VA or the AbilityOne Program and recommend closing Recommendation 25.

### **Implementation Status:**

To sustain and improve veteran employment opportunities within the AbilityOne Program in the future, the Subcommittee recommends that the AbilityOne Veterans Employment and Initiatives directorate assume responsibility for implementing the following eight actions.

1. The U.S. AbilityOne Commission educate all participating CNAs and NPAs on the current JWOD Act definition and Subcommittee Four's proposed definition of other disabilities which includes veterans.
2. Each CNA create a Veteran Hiring Incentive program.
3. The U.S. AbilityOne Commission and the CNAs establish a formal partnership with the VA to ensure VA personnel are aware of the employment opportunities in the AbilityOne Program and employment eligibility criteria. Additionally, the U.S. AbilityOne Commission include in the Cooperative Agreement the requirement for CNAs to educate NPAs on programs offered by the VA, specifically the Veterans Health Administration Compensated Work Therapy program and Veterans Benefits Administration Veterans

---

mean diseases/illnesses and injuries that are a result of military service for the purposes of compensation/pension benefits. For more information, see 38 CFR Part 4. The percentages represent average impairment in earning capacity resulting from service-connected disabilities and range from zero to 100 percent. Once a veteran reaches 100% per the VA Schedule for Rating Disabilities, VA describes this as a "total disability rating" which is defined in 38 CFR 4.15. While VA uses the term "total," a 0% or 10% rating is not described as minor nor a 100% rating as severe.

VA has priority processing for disabilities that are categorized as "Very Serious or Serious Illness or Injury." Service members who are determined by the DoD to be considered seriously or very seriously ill or injured will be considered seriously disabled for VA purposes. This requires VA coordination to confirm that status and to manage these cases for priority processing. However, the DoD makes the determination of "Very Serious/Serious Illness or Injury" and VA handles the file accordingly.

Readiness and Employment program (formerly known as Vocational Rehabilitation and Employment) for qualified veterans.

4. The U.S. AbilityOne Commission continue to encourage the CNAs and NPAs to participate in the Department of Labor-Veterans Employment and Training Services (DOL-VETS) Medallion program, Worker Opportunity Tax Credit (<https://www.dol.gov/agencies/eta/wotc>) and any future Veterans Employment Incentive programs developed by DOL-VETS. There are currently 21 NPAs actively participating in the Medallion program, with five of them being DOL-VETS Medallion awardees.
5. AbilityOne employment programs be included in the DOL-VETS FY 2021 Wounded Warrior Transition Assistant Program (TAP) employment curriculum. This new Department of Labor TAP employment curriculum will give special attention to job accommodation resources developed in coordination with ODEP, to ensure recovering service members can realize their full economic potential and a life of purpose despite the injuries they incurred in service. U.S. AbilityOne Commission collaboration with DOL-VETS and ODEP during curriculum development provides an opportunity to further inform transitioning wounded service members of employment opportunities that provide accommodation resources.
6. The U.S. AbilityOne Commission establish a formal partnership with DOL-VETS and the VA VR&E to further inform and educate transitioning service members and veterans about employment opportunities within the AbilityOne Program. DOL-VETS is establishing a formal Employment Navigator and Partnership Pilot through FY 2021 at military installations to assist transitioning service members find a suitable career path and connect to partner resources to help them reach their goals. Additionally, DOL-VETS state workforce development programs provide additional opportunities to engage veterans already in the workforce who would benefit from AbilityOne Program employment support.
7. The U.S. AbilityOne Commission establish a formal partnership with the DoD to inform and educate them about the employment opportunities within the AbilityOne Program for separating wounded, ill and injured service members. This partnership could open opportunities within DoD, like the SkillBridge program, that could lead to apprenticeships for service members assigned to Warrior Transition Units or undergoing Medical Evaluation Boards, and possibly greater use of the programs like Warrior Care, Education and Employment Initiative, and Operation Warfighter.
8. The U.S. AbilityOne Commission establish a formal partnership with Veteran Service Organizations and Military Support Organizations that have a focus on assisting wounded, ill and injured service members, such as Paralyzed Veterans of America, Blind Veterans of America, Disabled American Veterans and American Legion.

**Resource Requirement (if applicable):**

(1) Funding for FY 2022 in the amount of \$2.1 million for thirteen Commission staff positions in the Directorate of Veterans Employment and Initiatives to implement the above

recommendations. These positions must be supported with an additional \$250,000 in funding for travel, training, space, and equipment in FY 2022.

(2) Funding in future fiscal years to sustain and support these positions, at a minimum.

### **Section III: Next Steps**

#### **Panel Way Ahead in 2021**

After two years as Panel Chair, Mr. Kim Herrington, has transitioned this role to Mr. John Tenaglia. Effective November 9, 2020, Mr. Tenaglia is the new Principal Director, Defense Pricing and Contracting. The Panel welcomes Mr. Tenaglia as the new Panel Chair and looks forward to his leadership in 2021.

The work of the Panel the past three years involved significant commitment and collaboration to develop recommendations, implementation of the recommendations, administering on-going pilots, and outreach engagement, all to address the statutory duties of the Panel. However, it is crucial for Congress to appropriate sufficient funding in order for the U.S. AbilityOne Commission to fully implement the recommendations.

The Panel has four meetings scheduled in 2021. The subcommittees will focus on taking actions to implement the recommendations, which will involve drafting changes to law, regulations, or policy to eliminate the specific areas of vulnerability to waste, fraud, and abuse as set forth in 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 fourth annual Panel report by December 31, 2021.

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

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

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

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

Appendix D – Letters from External Organizations to the Panel Chair

Appendix E – DoD National Disability Employment Awareness Month Memorandum

# Appendix

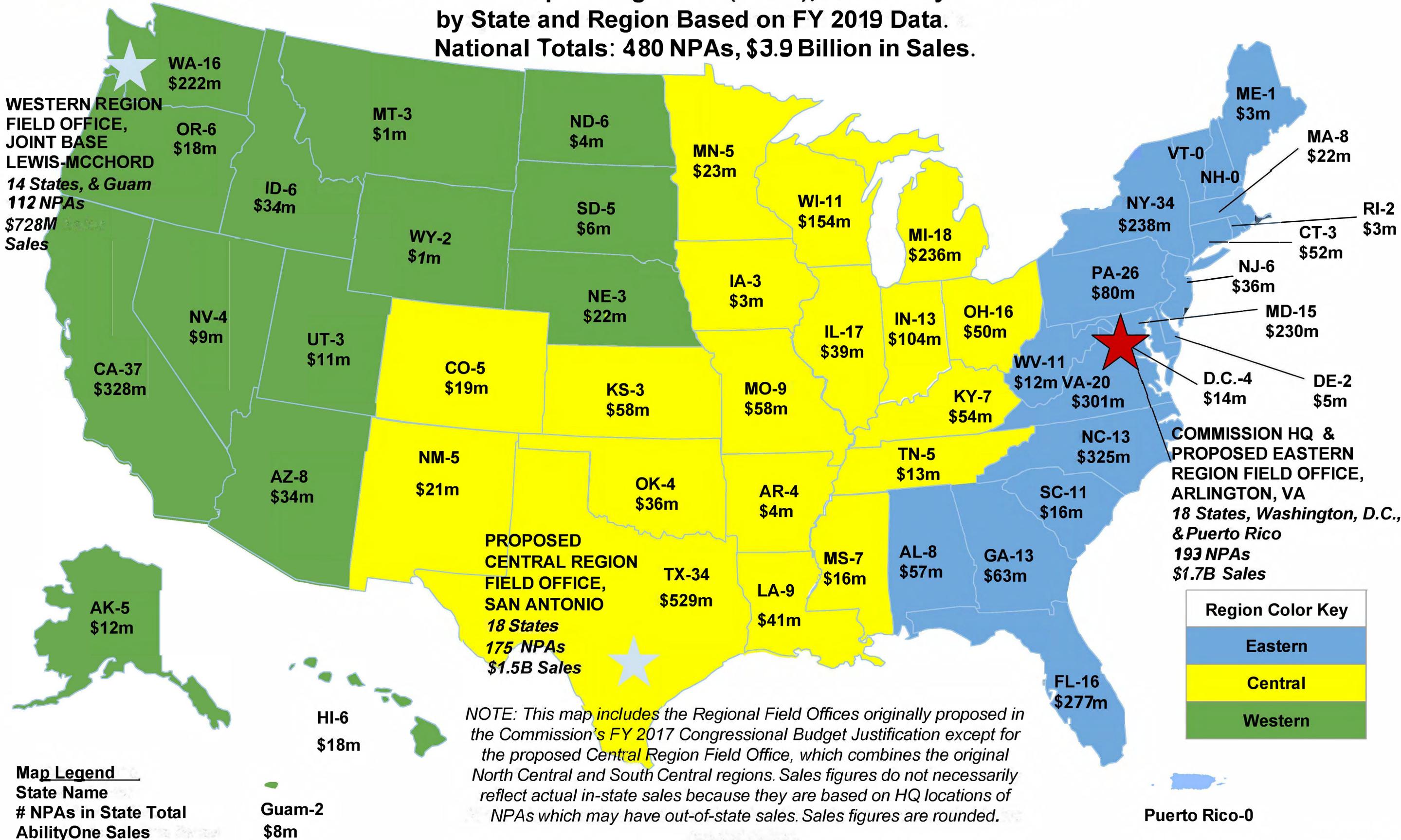
## A



# U.S. AbilityOne Commission



Regional Field Office Locations,  
Number of Nonprofit Agencies (NPAs), and AbilityOne Sales  
by State and Region Based on FY 2019 Data.  
National Totals: 480 NPAs, \$3.9 Billion in Sales.



# Appendix

# B



## U.S. ABILITYONE COMMISSION

November 17, 2020

**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: JEFFREY A. KOSES, INTERIM CHAIRPERSON

As required by section 898(i)(I) of the FY 2017 National Defense Authorization Act, I am providing the U.S AbilityOne Commission's assessment of the Third 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. Over the last several months, the response to the COVID-19 pandemic has highlighted the critical work performed by people with disabilities for the Department of Defense. Yes, nearly 70% of this population remains outside the workforce.

The Commission reviewed and supports the content and recommendations in the report and believes it will help in solving this national challenge. Commission members and staff are active participants on the Panel and look forward to its continued discussions. Key Commission objectives for the final report include further development and prioritization of its recommendations and proposed legislative language to support implementation.

Over the past several months, the AbilityOne Program has played a pivotal role in keeping federal workers and federal buildings safe. The Program experienced and met unprecedented demand for personal protective equipment and sanitizing and disinfecting Federal facilities thus helping to ensure the health and safety of first responders, military service members and government employees. Whether ensuring continuity of uninterrupted services such as dining facilities and switchboard operations at military bases, call centers for the Department of Veterans Affairs, or manning base supply stores on military installations, the Program demonstrated its essential nature to the Department of Defense.

We strongly agree with the Report's finding that the Commission requires additional 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.

Currently, the Commission has only 31 FTEs to administer a nearly \$4 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.



COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED  
An Independent Federal Agency



Over the past year, the Commission's work to implement Panel recommendations included initiating a second pilot test of competition among nonprofit agencies in the AbilityOne Program. The Commission's first competition pilot test, completed in 2019, resulted in savings which may approach 20%. The second pilot test continues the Commission's effort to develop a path to improving contractor performance while simultaneously achieving cost savings for Federal customers, and, by extension, taxpayers.

While the immediate results were positive, the first competition pilot also severely strained the Commission's resources limiting its ability to meet other Department needs, pointing to a need to explore alternative approaches to future competitions. The Commission looks forward to exploring these alternatives with the Panel.

The Commission is particularly grateful for the visionary leadership of the outgoing Panel Chairman, Mr. Kim Herrington former Acting Principal Director, Defense Pricing and Contracting, in the Office of the Secretary of Defense. During his time as the Panel's head, Mr. Herrington ensured that outreach to the nonprofit community, together with robust communication, stayed at the center of Panel activities. His site visits to nonprofit agencies were valuable channels for information exchange. As Mr. Herrington transitions to new responsibilities, we look forward to working with the incoming Panel Chairman, Mr. John Tenaglia.

In the past year, the Commission has made major strides toward implementing prioritized recommendations of the 898 Panel. This progress represents just the beginning of our efforts to benefit from the Panel's work and expertise, a process that will ensure and enhance AbilityOne Program's continued value to the Department of Defense and to the other federal agencies..

We look forward to continuing the collaboration with the Panel in the year ahead.

Sincerely,

DocuSigned by:



21BD80B9E8AC4A0...

Jeffrey A. Koses  
Interim Chairperson



# Appendix C

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

## D1-D3



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

July 6, 2020

Chairman Kim Herrington  
Acting Principal Director,  
3060 Defense Pentagon, Room 3B938  
Washington, DC 20301-3060

Dear Chairman Herrington,

This letter is intended to provide the perspective of qualified AbilityOne not for profit agencies for the blind to you and the members of the 898 Panel in response to your second report to Congress. Thank you for your service to our nation during the recent crisis. It is comforting to know that professionals like you and the members of the Panel are working in government to help ensure the nation remains strong.

The NAEPB appreciates the work of the Panel. You have taken the time to become familiar with the program and its important role in expanding employment of people with disabilities in our economy. Since your first report to Congress, you have consolidated duplicate recommendations. You have put into action several of the non-legislative recommendations such as enhancing training and automating processes. We applaud your work to protect the taxpayer from potential waste, fraud and abuse. What remains to address without Congressional action is a manageable list of initiatives to explore during the final year of the Panel's existence. We applaud your support of pilot programs to investigate some of the Panel's more complex recommendations to ensure there are no unintended consequences. For example, the initiative to reconsider the definition of "direct labor" to include all positions within a nonprofit agency would be a welcome change. NAEPB fully supports the use of pilot programs for this purpose, are actively involved in several and eagerly await their results. If proven beneficial to furthering the mission, we commit to working with stakeholders to support proposed regulatory and/or statutory changes even after the Panel sunsets in 2021.

We agree with the Panel determination that the AbilityOne Commission is underfunded and would urge Congress consider increasing funding to both the agency and the Office of Inspector General to perform their mandated functions. We would, at the same time, encourage necessary and appropriate controls be placed on the agency as outlined in the conclusions of recent financial audits of the agency to safeguard taxpayer dollars. We applaud your support of a 1.5% procurement goal across the Department of Defense to grow employment within the program. Like you, we believe that the establishment of a procurement goal would elevate the program's visibility within the contracting community and would foster creative collaboration between program stakeholders to expand job opportunities into new and emerging lines of business for AbilityOne to support government needs. This recommendation is timely since our nation is considering whether its dependence on foreign sources of supply is in the national interest. AbilityOne can and should be a resource for onshoring to protect the nation's industrial base.

We remain concerned about a handful of initiatives, which we relayed to you in response to the Panel's initial report to Congress. They include:

1. Competition between NPA's for assignments – We believe the process NIB employs in allocating work includes competition that mirrors the FAR source selection process. We acknowledge that nonprofit agencies associated with SourceAmerica have taken issue with the assignment process, including filing court actions. Regardless of rigor, any process will be challenged from time to time, as evidenced by the dramatic increase in contested awards of federal contracts in recent years. That said, the NAEPB regards the assignment process that NIB follows as transparent and objective. We oppose recompeting projects unless the assigned nonprofit agency is failing to perform.
2. CNA Fees - The Central Nonprofit Agency (CNA) fees are paid by the participating nonprofit agencies under the AbilityOne program. Such fees are not paid by the Federal Government and do not affect the prices paid by the Government under the JWOD Act. A review of the legislative history of the Wagner-O'Day Act (WOD) and the JWOD Act and their operation since 1938 shows that Congress did not intend to provide funds for normal CNA operations and has never done so. Instead, interested nonprofit agencies and other organizations for the blind established NIB, provided the seed money, funded its operations and bailed out NIB when this became necessary in the early 1970's. The Fair Market Price (FMP) determination under the original WOD Act and the amended JWOD Act does not include a premium to pay for the CNA fees. Changes in CNA fees do not affect the FMP. Changes in the methodology for computing the fee enacted by the Commission recently does not change this fundamental reality.
3. Lobbying – We believe that the central nonprofit agencies generate fees which the GAO has concluded are NOT appropriated funds. The CNAs have a First Amendment right to meet with Members of Congress and advocate for the nonprofit agencies when using nonappropriated funds to do so.
4. Regulatory and Policy Burden – We are mindful that a program like AbilityOne demands a partnership exist between government and the private sector, in this case, nonprofit agencies. We recognize the legitimate role of government in performing oversight, but urge the Panel to take care in proposing reports, documents and processes that could unduly burden a sector that is traditionally resource constrained. The precipitous decline in the number of participating nonprofit agencies in the AbilityOne program in recent years demonstrates that the burden is significant already, which is driving participants out. For this reason, we urge that the Panel consider additional burdens carefully and continue an open dialogue with the nonprofit agencies to seek a balance between what government needs and what the sector can support.

We understand that a number of working groups have been formed and involve the Commission staff as well as representatives of SourceAmerica and the NCSE to address specific initiatives. We would be please to participate in those working groups if that would be beneficial. Some of the issues listed above could be vetted in those sessions as well.

The NAEPB believes that the recent national crisis has shed light on the value of AbilityOne to the Department of Defense, the government as a whole and communities across the country. Nonprofit agencies throughout the nation were called upon to respond to the pandemic by supplying critically needed items such as Personal Protective Equipment, Cleaning Supplies and military-specific items. Orders of 3, 4 or even 5 times the normal volume were filled by nonprofit agencies during the crisis.

They added shifts, hired temporary workers, obtained additional production equipment, ordered significant inventory, found alternative sources of raw materials and incurred substantial debt to support the urgent needs of their customers.

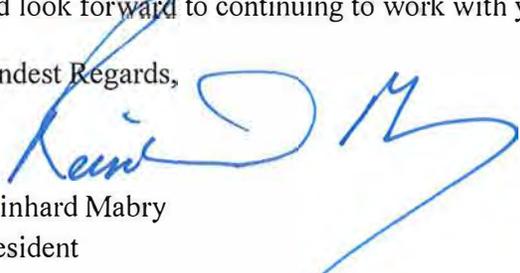
Employees who are blind continued to come to work and wore, as a badge of honor, the word “essential” when describing them and the work they performed for our nation. Employees who are blind continued to come to work, often working overtime, even in communities ravaged by Covid-19. They came even when public transportation was scaled back. They came even when they knew they were at increased risk and even when they were encouraged by their employers to remain home. They are proud to play a small part in the fight against the virus.

There are dozens of news stories that document the nonprofit agencies and employee’s response to the urgent demands of customers. As part of the Defense Industrial Base, the AbilityOne providers met the challenge. While a few voices have been raised that question the value and quality of jobs offered within AbilityOne, the recent national crisis has demonstrated that the jobs offered are Real and the work that is performed Matters.

In the coming months, we believe that the disruption caused by Covid and the civil unrest across the nation will negatively impact the employment of people with disabilities in our economy. This has been the case in economic downturns of the past and we expect it to be the case again. This year marks the 100th anniversary of the Vocational Rehabilitation Program. Much has changed since President Woodrow Wilson signed the “The National Civilian Vocational Rehabilitation Act,” into law in June of 1920. Nonprofit agencies are a critical component of the vocational rehabilitation system today. In its April 2020 report entitled “The State Vocational Rehabilitation Services Program Before and After Enactment of the Workforce Innovation and Opportunity Act in 2014,” the Department of Education acknowledged that because of “staff turnover and vacancies, particularly among VR counselors and other service delivery staff,” service levels are affected. The report added that “Consequently, VR counselors have less time to serve each individual with the complex array of individualized services needed... ultimately to achieve employment.” AbilityOne nonprofit agencies are a critical source of employment and job training in our economy that should be nurtured and not unduly burdened. As Americans with Disabilities seek new job opportunities, AbilityOne can and should remain an available option for stable employment and job training.

We greatly appreciate your engagement to further job opportunities for Americans with disabilities and look forward to continuing to work with you and the Panel.

Kindest Regards,



Reinhard Mabry  
President

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



August 3, 2020

Kim Herrington  
Acting Principal Director, Defense Pricing and Contracting  
Office of the Under Secretary of Defense  
Acquisition and Sustainment (USD(A&S))  
3060 Defense Pentagon  
Washington, DC 20301-3000

Dear Mr. Herrington:

Thank you for the opportunity to provide a response from National Industries for the Blind (NIB) to the recommendations outlined in the 898 Panel's (Panel on the Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity) second report to Congress. We also appreciate the opportunities to engage directly with the 898 Panel and several Panel subcommittees following the Panel's First Annual Report to Congress in 2018, including Panel visits to several NPAs. We recommend continuing this collaboration as the Panel continues its work.

The Department of Defense (DoD) 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 (NPAs) provide vital products and services in support of the warfighter and in response to the COVID-19 pandemic.

NIB supports creating a goal for AbilityOne procurement within DoD, as well as Report 2's recommendations to increase the DoD procurement base's AbilityOne Program knowledge and information accessibility through:

- increasing Defense Acquisition University (DAU) training
- improving tools such as the Procurement List Information System (PLIMS)
- making AbilityOne procurement information more readily available
- expanding the Air Force AbilityOne Representative (ABOR) model

The recommendations to change the Administrative Procedures Act (APA) timeline and incorporate Section 508 training would, in our view, also benefit the Program.

We also believe the panel's recommendations around creating alternatives to the 75% direct labor ratio, notably a consideration of all nonprofit agency (NPA) employees who are blind or have significant disabilities when looking at ratio (e.g. a "total agency ratio"), could eliminate the misperception among some that people who are blind or have other significant disabilities are somehow denied pathways to upward mobility. The change in calculation could also open new business lines and career opportunities not previously considered because of the constraints caused by the existing ratio.

The Panel's recognition of the challenges caused by the Social Security Disability Insurance (SSDI) "cash cliff" are also welcome, and we recommend calling that out specifically as a barrier to upward mobility. We also agree with promoting additional benefits counseling, though directing CNA resources to do so would be redundant with a function already performed by local Social Security Administration offices.

At the same time, other recommendations prompt additional questions and considerations for the Panel, based on the recommendation structure in the January 2020 report, including:

- Having Central Nonprofit Agencies (CNAs) "...*identify Vocational Specialists to develop a program wide process for employees to reach vocational goals/career paths*" under Recommendation #6 – it should be noted that as the direct employers of individual employees, NPAs are best positioned to work with their employees on developing individual goals/career paths consistent with their local employment markets. NPAs are currently required under AbilityOne regulations to have a placement program in place.
- The language under Recommendation #11 that "this process sets the AbilityOne Program apart from other federal entities that require minimal proof of disability" is not accurate when considering individuals who meet the AbilityOne legal definition of blindness, which is the same legal definition of blindness used by other federal agencies (Social Security Administration, Veteran's Administration, IRS).
- The details of Recommendation #12 state "*The CNAs should develop a certificate based training course for persons within NPAs completing the IEE [Individual Eligibility Evaluation] process and require continuous learning on a two-year cycle.*" However, it is unclear what authority the CNAs have to require NPA staff to complete a certificate-based training course on the IEE process.
- Regarding Recommendation #13, we wholeheartedly support the inclusion of veterans who meet the same disability definition requirements as all other individuals who are blind or have significant disabilities within the AbilityOne Program. It is unclear from the language, though, if the CNAs or the NPAs should be developing the MOUs with colleges and other agencies outside the AbilityOne Program.
- Recommendation #14 includes language around incentives. Would those incentives for larger NPAs to mentor smaller NPAs be written into the (mandatory) CNA recommendation / assignment policies? If so, would that then make mentoring a requirement of larger NPAs that want to pursue additional AbilityOne work? Would AbilityOne contracts provide a financial means to support the costs of offering mentoring services?
- Recommendation #17 would *Establish penalties if a CNA or NPA does not follow policies and procedures*, and not following prescribed laws/regulations/policies should have consequences, but it is not clear from the Recommendation or Course of Action what penalties exist for NPAs outside of the failure to comply with the direct labor requirement. Note that the CNAs and NPAs are already subject to a myriad of legal and regulatory oversight from the IRS, DOL, OSHA, Dept. of Education, and federal contract requirements. Many of the proposed laws/regulations/policies appear to duplicate the oversight by these other government agencies, adding unnecessary burdens to a sector that is already under significant economic pressure.

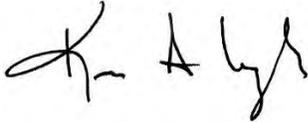
NIB also recommends the 898 Panel consider the following:

- Under Recommendations #9 and #10 around amending the JWOD Act to change the definition of severe disability, we recommend the JWOD definition of blindness be expanded to include individuals who meet the medical definition of “severely visually impaired.” The accessibility requirements for these individuals are usually the same as for individuals who meet the current definition of legal blindness, but those individuals would not count toward the 75% direct labor ratio requirement at a NIB NPA.
- Regarding Recommendation #15 around the AbilityOne Commission creating a mandatory recommendation guide:
  - Did the Panel consider differences between Products lines of business, which can require significant capital investments in equipment, and Services lines of business that do not require the same level of upfront financial investment by the NPAs?
  - Before developing a mandatory guide, NIB strongly encourages the Commission staff work with the CNAs to understand the CNA processes already in place. In NIB’s case, NIB’s policy already mirrors the federal government’s Source Selection Process.
  - Including the “percent of veteran direct labor hours” as a mandatory evaluation factor creates an incentive system where veterans who are blind (in NIB’s case) are given a preferred status over other individuals who are blind, regardless of individual capability. Is that the intent?
- Recommendation #16 centers around establishing business rules for competition and assignment of work.
  - This appears to treat manufacturing and service provision the same, and as posited earlier, are NPA capital investment costs going to be taken into consideration in these business rules?
  - Related to the above, NPA employees should have right of first refusal when the assigned NPA changes, but this is really only practical in a services environment where the location of the work is being performed at the customer site. For manufacturing, absent merger-type activity, the newly assigned NPA would not take over in the same physical location and employees would need to relocate, not to mention the lost capital investment in machinery, etc. by the original NPA.
  - This recommendation also includes the statement that “*Increasing competition within the AbilityOne Program will promote employment growth among people who are blind, disabled, and veterans.*” How exactly will competition increase employment? What data exists to back up this statement? Labor costs are the largest cost component of service contracts, and one of the largest components of product manufacturing. If increasing competition means lower prices, the first place most organizations would look is labor costs. Reducing labor costs would mean more automation and reducing employment, in direct contradiction to the AbilityOne Program’s stated mission.
- Regarding Recommendation #18, “*Reduce the existing gaps and deficiencies in the CNAs’ processes,*” NIB’s current assignment process already mirrors the federal government’s Source Selection Process.
- Regarding Recommendation #19, “*changing 41 CFR 51 to include information regarding undesignation of CNAs and deauthorization of NPAs as the authorized source on the Procurement List.*”

- The same issue applies here as with Recommendation #16 regarding employee right of first refusal as it pertains to manufacturing vs. services and capital investment by the NPA in equipment.

Thank you again for the opportunity to provide feedback to the 898 Panel.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin A. Lynch". The signature is fluid and cursive, with the first name "Kevin" being the most prominent.

Kevin A. Lynch  
President and CEO

cc: Thomas Robinson, Chairman, U.S. AbilityOne Commission  
Tina Ballard, Executive Director, U.S. AbilityOne Commission  
Tom Lehigh, Inspector General, OIG U.S. AbilityOne Commission  
Reinhard Mabry, President, NAEPB

September 30, 2020

Chairman Kim Herrington  
Acting Principal Director, Defense Pricing and Contracting  
Office of the Under Secretary of Defense  
Acquisition and Sustainment (USD(A&S))  
3060 Defense Pentagon, Room 3B938  
Washington, DC 20301-3060

Dear Chairman Herrington:

All people with disabilities deserve to be engaged in the dignity of work. SourceAmerica® and the National Council of SourceAmerica Employers (NCSE) commend the ongoing work of the Section 898 Panel to improve the effectiveness and internal controls of the AbilityOne® Program related to Department of Defense (DoD) contracts. We continue to view our collaboration with the Panel and the U.S. AbilityOne Commission® as a priority and appreciate the opportunity to provide our combined perspectives on the Panel recommendations. We thank you for your recognition of the Program's contributions and the vital role we play in support of the federal customer, our communities and local economies.

Our organizations support many of the key findings provided in the Panel's second annual report to Congress. The attainment of a 1.5 percent growth goal with DoD is critical if we are to create more jobs through the AbilityOne Program. A procurement goal is also particularly important with the number of Americans with disabilities on the rise. It is our hope that the progress achieved on the Panel recommendations will give Congress the confidence to resume legislative discussions on this procurement goal. We also concur that while the AbilityOne Program is achieving success and meeting customer needs, the Commission continues to operate on a budget insufficient to oversee a program employing nearly 45,000 individuals with significant disabilities.

The feedback provided below focuses on key recommendations that we believe will move us closer toward successful resolution.

### **Subcommittee One – Inspector General (1, 2)**

Expanded Training: SourceAmerica and the NCSE support Subcommittee One's recommendation to expand access to AbilityOne Program training to the entire federal acquisition workforce. SourceAmerica, in partnership with National Industries for the Blind (NIB) and with the support and approval of Commission staff, conducted three AbilityOne trainings in recent months for three civilian agencies. These trainings were well received and provided a better understanding of how the AbilityOne Program provides customer solutions and meets Category Management mandates.

### **Subcommittee Two – Eliminate Fraud, Waste, and Abuse (3, 4, 5)**

Disability Documentation: Our organizations have worked closely with the Commission to modify the Individual Eligibility Evaluation (IEE) form. Modifications include broadening the defined scope of disabilities served within the Program and expanding upon the recognized functional limitations imposed by significant disabilities. The Commission recently issued eight new compliance policies, with an additional IEE-specific policy expected soon. The guidance within the new IEE form and policy 51.405 will be central to finalizing operational procedures and training materials.

Increased Oversight and Audit Coverage: Ongoing budget constraints continue to pose a challenge for the AbilityOne Office of Inspector General (OIG). Despite this, Thomas Lehrich, Inspector General for the Committee for Purchase From People Who Are Blind or Severely Disabled, and his staff continue to provide oversight. Two audits were successfully completed on integral components of the AbilityOne Program, one

on Program Fee and the second on the effectiveness of the Cooperative Agreement. Neither audit produced material findings.

It is important to note that as part of our regulatory assistance reviews, we review 70 percent of the nonprofit agencies (NPAs) in our network annually. This includes provision of technical support and corrective action planning. These reviews are traditionally conducted on site, however, due to the current pandemic, we are now conducting them in an online format to ensure the continuity of engagement related to Program regulatory compliance.

#### **Subcommittee Four – Laws and Regulations (7, 8, 9)**

Definition Changes: SourceAmerica and the NCSE support the proposed changes to the Javits-Wagner-O'Day (JWOD) Act. Changes to the definition of "significant disability" and the incorporation of indirect labor will allow for a more accurate representation of people with disabilities employed by the NPA network. This will provide additional visibility into the upward mobility that occurs within each organization.

Ratio: Our organizations have continued to support the Commission in pilot testing the impact of lower ratio requirements on employment outcomes. Current findings indicate there should be two considerations for ratio recommendations. For new Procurement List (PL) additions, a ratio no lower than 40 percent should be considered for the first 18 months, similar to the current phase-in plan. Following this phase-in period, a ratio no lower than 51 percent should be maintained for ongoing contracts. As the number of projects adopting this model expands, we will be better able to assess the impacts. The NCSE and SourceAmerica will continue to be at the forefront of change and policy development to create employment options for people with the most significant disabilities.

#### **Subcommittee Six – Acquisition and Procurement (14, 15, 16, 17, 18, 19)**

SourceAmerica and the NCSE have consistently shared reservations related to the concept of competition on price for AbilityOne contracts. On most service contracts, cost of labor is the greatest contractor expense. AbilityOne providers, with price as an evaluation factor, could create efficiency by eliminating the employees with the most significant disabilities from the workforce. The opinion of many suggests competition based on price will incentivize the minimization of employment for individuals with the most significant disabilities.

We believe the proposed plan for competition on AbilityOne projects is not what was intended by the JWOD Act, which designated the role of Fair Market Price (FMP) development and price revisions (JWOD, Section 2, (41 USC. 8501-8506)) solely to the Commission. Commission policy further describes the unique elements that impact pricing within the AbilityOne Program:

*Commission Pricing Policy 51.600*

*The recommended-FMPs shall consider the government's socioeconomic interests and the purpose of the AbilityOne Program, which is to provide employment for people who are blind or have other significant disabilities.*

*i. The participating NPAs, CNAs, and Contracting Activities are responsible for presenting the Commission with a fair and reasonable price recommendation that considers the unique mission and workforce of the AbilityOne Program.*

The NCSE members who attended the Subcommittee Six presentation on a proposed competition procedure provided feedback to the Panel and SourceAmerica. As a result, our organizations put forward the following points for the Panel's consideration:

- We endorse the option for a Contracting Officer (KO) to retain an NPA that is performing well (in essence waiving the option to undergo competition on that acquisition).
- We support the 10-year timeframe between re-competition on AbilityOne acquisitions.

- We support the exclusion of product contracts from competition. Product contracts generally require significant capital investment. Re-assignment of an AbilityOne product contract presents a potentially detrimental financial impact on NPAs.
- We recommend that AbilityOne service contracts performed at an NPA's facility, for example a call center, be treated like product contracts and also be excluded from competition. If an AbilityOne contract performed at an NPA established location were to be re-assigned, those individuals who perform work on that contract may not have the ability to relocate to the successor NPA and would be at risk of losing employment.
- We recommend competition for service contracts start at a \$10 million annual threshold, as opposed to the now proposed \$2 million threshold. We believe the Panel underestimated the volume of service projects that will be impacted. The table below describes the volume of AbilityOne service contracts to be competed annually at the proposed thresholds.

<b>AbilityOne Service Contracts (FY21-25)</b>				
	<b>\$2 Million Threshold</b>		<b>\$10 Million Threshold</b>	
	DoD-Only	All Service Contracts	DoD-Only	All Service Contracts
FY21	42	58	5	5
FY22	41	62	9	11
FY23	27	41	8	8
FY24	10	37	1	3
FY25	22	31	3	4
<b>Total</b>	<b>142</b>	<b>229</b>	<b>26</b>	<b>31</b>

- We are concerned about resource constraints of the AbilityOne Commission staff to execute the increased workload associated with the introduction of competition in general and specifically with the expanded role for the Commission staff envisioned by the Panel.
- Introducing competition is highly likely to create protests, appeals and disputes. On conventional federal acquisitions, the Government Accountability Office (GAO) handles both pre and post award protests, and contractors have recourse to the Armed Services Board of Contract Appeals (ASBCA). FAR Part 8 acquisitions do not have this recourse. It is unclear how a similar forum would be created, short of litigation, for fair and expeditious processing of such matters on AbilityOne competitions.
- We recently initiated the development of a revision to the Panel's proposed procedure to include additional criteria and recommendations. Key components are as follows:
  - On proposals for opportunities that exceed \$2 million annually, the NPAs responding will be required to include a proposed price based on a price range that will be validated by the customer and incorporated into the opportunity notice.
  - Opportunity postings will include a project development timeline and milestones created with the customer.
  - The proposals will be subject to a ranking that will be provided to the Commission along with the book of record for their final recommendation.
  - Minimum criteria related to ratio and expanded employment options will be enhanced.

The AbilityOne OIG audit on the NPA Recommendation Process is currently underway, with a final report due to be released in December. We respectfully request the panel delay proposing a final plan until:

- Definitive results from the second competition pilot are available;
- The CNAs have an opportunity to provide feedback on the proposed plan; and
- The OIG has finalized and published the audit results on NPA recommendation procedures for both SourceAmerica and NIB.

**Subcommittee Seven – Business Process Re-Engineering (20, 21, 22, 23, 24, 25, 26)**

Pricing Database: SourceAmerica and the NCSE support the concept of a centralized pricing database that federal customers can access for AbilityOne contracts. We, along with Commission staff, have participated in assessing the Prices Paid Portal and other dashboards on the acquisition gateway hosted by the General Services Administration (GSA) to vet the feasibility of this pricing tool. In collaboration with the Commission, GSA has facilitated multiple demonstrations of the system for the CNA and NPA communities. GSA has expressed an openness to working with AbilityOne stakeholders to expand the existing system to meet the specifics of the 898 Panel recommendation. This solution is a work in progress and would not meet the full scope of the Panel recommendation as stated. It is, however, a step toward addressing this recommendation.

**Subcommittee Eight – Employment and Veterans Eligibility Initiatives (6, 11, 12, 13)**

IEE Certification: SourceAmerica and the NCSE support the development of a training solution by the CNAs to meet certification requirements for IEE completion. Evidence-based training development is underway, and we are exploring options to obtain certification. We anticipate that a third-party certifier will be needed to avoid any possible perceived conflict of interest.

Increased administrative requirements related to the Program may be disproportionately burdensome and may discourage participation for smaller NPAs. More than half of AbilityOne NPAs affiliated with SourceAmerica employ 10 or fewer disabled full-time employees. With these concerns in mind, we continue to explore possible solutions.

Veterans Programming: We support enhanced recruitment initiatives to increase jobs for veterans with disabilities within the AbilityOne Program. However, we share concerns about creating a preferred status within the larger group of people with disabilities served by the NPA network. We propose the following: If the government contracting office includes a required preference for hiring veterans with disabilities, then that requirement would be passed forward and incorporated within the AbilityOne Opportunity Notice.

We look forward to sharing our perspectives to the Section 898 Panel in November. We value the ongoing collaborative work with the Panel, DoD, and the U.S. AbilityOne Commission to achieve the shared goal of increasing employment for all people with disabilities. If you have any questions or need any additional information, please let us know. Our contact information is:

SourceAmerica  
(571) 421-8705  
rbelden@SourceAmerica.org

National Council of SourceAmerica Employers  
(928) 257-5191  
ccarr@Achievehs.org

Sincerely,



Richard Belden  
Interim Chief Executive Officer  
SourceAmerica



Carol Carr  
President  
National Council of SourceAmerica Employers

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

# Appendix

# E



ACQUISITION  
AND SUSTAINMENT

## OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES SPECIAL OPERATIONS  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES TRANSPORTATION  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING)  
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: National Disability Employment Awareness Month and the AbilityOne<sup>®</sup> Program

Each year, the President signs a proclamation in observance of National Disability Employment Awareness Month (NDEAM). This year not only marks the 75<sup>th</sup> observance of NDEAM, but also commemorates the 30<sup>th</sup> anniversary of the landmark Americans with Disabilities Act. The Federal NDEAM theme, “Increasing Access and Opportunity,” emphasizes increased access and opportunity in the workplace for people with disabilities. Observed each October, NDEAM is an excellent time to recognize the workers in the AbilityOne Program, which is one of the largest sources of employment in the Nation for individuals who are blind or have significant disabilities.

The Department of Defense (DoD) continues to be the lead customer of the AbilityOne Program, procuring more than \$2.3 billion of products and services in FY 2020. Today, nearly 35,000 individuals who are blind or have significant disabilities perform work on DoD contracts with approximately 500 community-based nonprofit agencies across the country. The DoD contracting workforce supports the AbilityOne employment mission through the procurement of products and services in compliance with the Federal Acquisition Regulation subpart 8.7.

AbilityOne companies and workforce have proven to be a vital segment of the defense industrial base. Since the beginning of the COVID-19 pandemic, DoD contracting professionals have processed 600 contract actions, valued at \$43 million, with AbilityOne companies. These companies increased surge capacity to manufacture and deliver critical products and to maintain essential services to support the ongoing COVID-19 national emergency response. AbilityOne workers have been on the front lines of defense to keep our workforce safe and buildings operational. Employees who are blind and visually impaired, or who have significant disabilities, are sewing and delivering high-demand items such as masks, gowns, and military uniforms, and helped load meals into the USNS *Comfort* for its mission support to the pandemic response in New York City. AbilityOne employees with disabilities are working extra shifts to

produce hand-sanitizers, construction kits, and Personal Protective Equipment, and to provide laundry and deep-cleaning disinfecting services for military hospitals.

The Section 898 Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity, established by the National Defense Authorization Act of FY 2017 (Pub. L. 114-328), submitted recommendations to Congress that are in various stages of implementation. One Panel recommendation is for DoD Components to establish an AbilityOne Representative (ABOR) Program based on the Air Force ABOR initiative, involving a strategic plan and data driven approach, and includes a procurement goal for growth in AbilityOne Program participation. As the Chair of the Panel, and in recognition of NDEAM, I am directing DoD Components to establish an AbilityOne Representative (ABOR) Program with a target implementation date of October 1, 2021. My office, in collaboration with the U.S. AbilityOne Commission and the Air Force, will host an initial planning meeting in January 2021.

Additionally, contracting professionals are encouraged to take the Defense Acquisition University (DAU) Continuous Learning Module (CLM) 023, "DAU AbilityOne Training," to meet continuous learning requirements. Over 90,000 individuals in DoD, Federal agencies, and industry have completed the training since deployment of the updated CLM 023 in May 2018. This training is educating the workforce about the AbilityOne Program and will help ensure the DoD continues to lead efforts to create job opportunities for individuals who are blind or have significant disabilities.

During NDEAM, we express appreciation to the incredibly talented AbilityOne employees for their dedication in service to the defense mission, especially during these unprecedented times. I also commend the contracting workforce for their leadership in facilitating new prime contract opportunities with the AbilityOne Program. Through our team effort, veterans and individuals who are blind or have significant disabilities will have a greater opportunity to work, lead independent lives, contribute to military readiness, and add 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 571-309-8525 or [susan.w.pollack.civ@mail.mil](mailto:susan.w.pollack.civ@mail.mil).

**HERRINGTON** Digitally signed by  
**ON.KIM.15** HERRINGTON.KIM  
**07719313** 1507719313  
Date: 2020.10.08  
17:11:28 -04'00'

Kim Herrington  
Acting Principal Director,  
Defense Pricing and Contracting