

Cooperative Agreement Single Modification

between

Committee for Purchase From People Who Are Blind or Severely Disabled

the United States AbilityOne Commission
1401 S. Clark Street, Suite 715
Arlington, Virginia 22202-3259

and

Central Nonprofit Agency
National Industries for the Blind
3000 Potomac Avenue
Alexandria, VA 22301

Concerning

Cooperative Agreement #002

Change in Agreement Term: N/A

Change in Award Fee Pool: N/A

Effective Date: February 10, 2020

For National Industries for the Blind

KEVIN LYNCH Date
President and Chief Executive Officer
National Industries for the Blind

_____/s/_____
SHELLY HAMMOND Date
Agreement Officer and
Director of Policy and Program

SUBJECT AGREEMENT IS HEREBY MODIFIED AS FOLLOWS:

The purpose of this modification is to provide changes to the Cooperative Agreement and QASP as follows:

1. Section B.2 – Program Fee Ceiling, Paragraph has been revised to remove “The fee structure implements the provisions of the JWOD Act and 41 C.F.R. Chapter 51 by defining a more transparent process for the delivery of CNA service to the qualified NPAs.” **And add the following “Pursuant with 41 C.F.R. §51-2.2(f) the Commission sets the fee ceiling on fee paid to CNAs.”**
2. Section B.3(d) – CNA Authority to Charge Program Fees from NPAs, Paragraph has been revised to remove “Upon the second notice by the CNA to the Commission of the failure of any qualified NPA to timely pay the Program Fee within a twelve (12) month period, the CNA shall propose the corrective action for the Commission’s approval. The Commission may approve the proposed corrective action or otherwise direct the CNA and/or the qualified NPA to take corrective action.” **And add language “The CNA shall provide the Commission a list of all NPAs that fail to submit timely payment of Program Fee. This list will be submitted within the Quarterly Fee and Expenditure Report.”**
3. Section C.1 – Objective, Paragraph has been revised to remove language **“The overall purpose of this Agreement is to implement Consolidated Appropriations Act, 2016, Public Law 114-113 2016, by establishing the governing relationship between the Commission and the CNA to ensure effective stewardship of the AbilityOne Program and to increase employment and training opportunities for persons who are blind through the delivery of products and services to the Federal Government in accordance with the JWOD Act.**

High value is associated with sustaining and increasing current employment levels and developing and executing new lines of business that also increase new employment opportunities.

Key performance indicators of this agreement are:

- Employment Growth
- Program Administration, Oversight, and Integrity
- NPA Support, Assistance, and Development
- Training and Strategic Communications”

4. Section 3.1.1 – Employment Growth Plan Analysis, Paragraph has been revised to remove language “(e.g. Gallaudet, American Public University, disability rehabilitation programs, etc.)”
5. Section C.3.1.1 – Employment Growth Plan Analysis, Paragraph has been revised to add language “**total Blind DLH (BDLH) separately (as reported in Annual Representations and Certifications). The BDLH will be what is measured in the Quality Assurance Surveillance Plan (QASP). The Employment Growth Plan...**” to specify the hours to be measured within the QASP.
6. Section C.3.1.1 – Employment Growth Plan Analysis, Paragraph revised to add language defining innovative approaches “**The CNA’s progress will be evaluated annually. Innovative approaches to employment growth consist of the following:**
 - (1) **Creating product families new to the AbilityOne Program;**
 - (2) **Branching out into services new to the AbilityOne Program; and**
 - (3) **Expansion of new or existing products and services to new customers.**”
7. Section 3.1.1 – Employment Growth Plan Analysis, Paragraph revised to include added specificity on what is measured in the QASP “**Promoting employees in upwardly mobile jobs in indirect labor, supervision, management, or competitive employment positions (including those places and/or promoted outside of the Program)... Upward mobility and competitive placement is a two-fold element within the Quality Assurance Surveillance Plan (QASP): (1) Plan approved and in place to increase upward mobility and competitive placements (within Employment Growth Plan) and (2) employee satisfaction with said programs. See QASP (Attachment 2) for further details on the requirements and how each is measured.**”
8. Section 3.1.2 – New Employment Growth Enhancement Initiative, Paragraph revised to remove language “**3.1.2: New Employment Growth Enhancement Initiative.** ***RESERVED***- The Commission and NIB agree to develop the terms and conditions of this section no later than six (6) months after the execution of this Cooperative Agreement, to include new additional employment growth initiatives promoting a quality work environment, living wages, and more integrated employment settings, to be recommended by the Commission and subject matter experts. The CNA’s performance of requirements of this section shall be one of the factors the Commission considers as part of the review of the Program Fee ceiling determination.”
9. Section 3.2.1 – CNA Governance, Paragraph moved to 3.2.11 as stand-alone section on Efficiency and Cost Savings “**The CNA shall monitor, track, and report all internal increased efficiencies and cost savings achieved which result in positive outcomes for**

the AbilityOne Program. Annually as part of the fourth quarter report, the CNA shall include a separate section delineating and explaining each increased efficiency, the related cost savings, and the corresponding outcomes realized throughout the year. The Commission will use the Annual CNA Expenditures Report as the baseline for tracking cost savings reported by the CNA.”

10. Section 3.2.5 – Equitable Allocations and Recommendations, Paragraph has been revised to add **“This report will detail examples of equitable allocations, expansions of NPA opportunities in different LOBs, as well an increase in recommendations that result in PL additions.” And The Commission reserves the right to conduct ad-hoc reviews of the Allocation and Recommendation policies and procedures, and implementation “or request changes based on changes in law or as a result of litigation.”**
11. Section C.3.2.6 – Quality Work Environment Initiative, Paragraph removed **“The Commission presented a proposal to the QWE Steering Committee for the new Employee Enhancement Initiative, for their feedback. The proposal was in three parts, and called for (1) NPA QWE data, (2) a summary of best practices, and (3) a plan to build upon those best practices. The consensus of the Steering Committee was to provide the Commission with a representational sample of data gathered and analyzed from NPAs from existing surveys related to employee fulfillment, satisfaction, and employment supports. for review within 1QFY20. Further analysis of the data would determine what goals were met, what questions left unanswered, and how employees have benefited. From there, initiative requirements would be further developed.”**
12. Section 3.2.7.3 – Complex Projects Feasibility Analysis, Paragraph revised as follows:

From:
“This report is not submitted via PLIMS, as it is understood that the report is submitted to generate discussion and a decision at a point in time well before information is ready for entry into PLIMS.”

To:
“(See Attachment 6). This analysis is submitted to the Deputy Director, Business and PL Operations, to generate discussion and a decision, at a point in time well before an add product/service package would be received in PLIMS.”
13. Section 3.2.7.14 – CMS Projects, Paragraph revised to remove some elements required on the report: “customer (Requiring Activity), Transaction ID, Location City, Location

State, Task Order Completed (Y/N).

14. Section 3.3.2.3 – Risk and Financial Assessment, Paragraph revised to add language **“within ten (10) business days after completion of third party financial assessment as long as it meets the Commission’s overall deadline.”**
15. Pages 39-40, Section 3.4.1.6.2 – Market Research Analysis and Surveys, Paragraph revised to add language **“related to the AbilityOne Program”** throughout for specificity.
16. Section 6.4 – Performance Evaluation, Paragraph revised to remove language **“Failure to meet a stated AQL within the QASP (e.g., Satisfactory or higher) will result in a reduced Program Fee ceiling. The Commission reserves the right to review and adjust, as necessary, the Program Fee ceiling on at least a quarterly basis.”** And add language **“Based on CNA performance, the Program Fee will be set accordingly.”**
17. Section E.13, the business ethics language was re-added after it had been inadvertently removed in a prior modification.

“(a) *Definition.* As used in this clause--

“Agent” means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

“Full cooperation”—

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors’ and investigators’ request for documents and access to employees with information;

(2) Does not foreclose any CNA rights arising in law, the FAR, or the terms of the Agreement. It does not require—

(i) A CNA to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the CNA, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a CNA from—

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the Agreement or related to a potential or disclosed violation.

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

“Subcontract” means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

“United States” means the 50 States, the District of Columbia, and outlying areas.

(b) Code of business ethics and conduct.

(1) Within 30 days after Agreement award, unless the Agreement Officer establishes a longer time period, the CNA shall—

(i) Have a written code of business ethics and conduct;

(ii) Make a copy of the code available to each employee engaged in performance of the Agreement.

(2) The CNA shall—

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3) (i) The CNA shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Agreement Officer, whenever, in connection with the award, performance, or closeout of this Agreement or any subcontract thereunder, the CNA has credible evidence that a principal, employee, agent, or subcontractor of the CNA has committed—

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the CNA's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by the law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the CNA. The Government may transfer documents provided by the CNA to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Government-wide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the CNA shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic Agreement.

(c) *Business ethics awareness and compliance program and internal control system.* This paragraph (c) does not apply if the CNA has represented itself as a small business concern pursuant to the award of this Agreement or if this Agreement is for the acquisition of a commercial item. The CNA shall establish the following within 90 days after Agreement award, unless the Agreement Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the CNA's standards and procedures and other aspects of the CNA's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(2) An internal control system.

(i) The CNA's internal control system shall—

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the CNA's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Best efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the CNA's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the CNA's code of business ethics and conduct and special requirements of Government contracting, including—

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Agreement Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the CNA or a subcontractor thereunder, the CNA has credible evidence that a principal, employee, agent, or subcontractor of the CNA has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Agreement Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Government-wide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' Agreement Officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) Subcontracts.

(1) The CNA shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5.5 million and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Agreement Officer.

18. Attachment 1 – Deliverables Schedule, dates and titles have been modified to align with the Performance Work Statement. And sentence added “**Reports that will be evaluated for the on-time deliverable metric in accordance with the QASP on semi-annual basis.”
19. Attachment 6 – Complex Project Form added as Attachment 6 to link with 3.2.7.3
20. Attachment 2 – QASP, fields following were revised.
21. KPI 1, 2nd row, New Employment Hours Growth, language revised to clarify “Blind” Direct Labor Hours across all columns.
22. KPI 1, 3rd row, Upward Mobility and Competitive Placement – Original Language:
 Unsatisfactory – Zero programs designed to positively impact upward mobility and competitive placement
- Satisfactory – One program designed and in place to positively impact upward mobility and placements by at least 1%
- Good – Two programs designed and in place to positively impact upward mobility and placements by more than 1% up to 2%
- Exceptional – Two or more programs designed and in place to positively impact upward mobility and placements by greater than 2%
- Revised language broken into two parts (base year and 2nd year and beyond)
 Base year: Unsatisfactory – No upward mobility/competitive placement plan submitted and approved by the Commission
- Satisfactory – Upward Mobility and Competitive Placement Plan submitted by 1 September 2020 and approved by the Commission. The plan will include: (1) growth targets by percentage; (2) pathways for achievement of growth targets; (3) timeline with key milestones identified
- Good – CNA meets Satisfactory requirements AND 1-2 milestones achieved
- Exceptional – CNA meets Good requirements AND 3+ milestones achieved
- 2nd year and beyond: Unsatisfactory – No plan in place to prepare/assist employees for upward mobility and competitive placement
- Satisfactory – (1) Commission approved plan in place to positively impact upward mobility and placements by at least 2.4%; (2) shows demonstrated 2.4% increase (measured against CNA’s entire AbilityOne workforce)
- Good – (1) Commission approved plan in place to positively impact upward mobility and placements by at least 2.5% and up to 2.99%; (2) shows demonstrated 2.5-2.99% increase

(measured against CNA's entire AbilityOne workforce)

Exceptional – (1) Commission approved plan in place to positively impact upward mobility and placements by at least 3%; (2) shows demonstrated 3% increase (measured against CNA's entire AbilityOne workforce)

23. KPI 2, Row 1, Efficiency and Cost Savings moved down to row 6 because now under PWS 3.2.11
24. KPI 2, Row 2, Litigation/Investigations Reporting, now Row 1. Language in Satisfactory, Good, and Exceptional removes "provided to Commission IAW PWS." Exceptional language revised from "proof of decrease in violations as applicable" to "proof of disciplinary actions taken to repeat offenders, in line with CNA policy"
25. KPI 2, Row 5, Timely PL Addition Requests, language in Unsatisfactory and Satisfactory revised from "More than one submitted" and "One submitted at least" to "Average submission time is"
26. KPI 2, Row 6, PL Service Pricing Updates Maintained (Base Year ONLY) removed in its entirety because Base Year is complete.
27. KPI 2, Row 7, now Row 5, language revised from "2nd year" to FY2020. Unsatisfactory language revised to include "and any FMP update submitted outside of the 5 business days of receipt of fully executed concurrences." Good language revised to remove "and ensures pricing disputes are resolved at the lowest level" and include "(with the exception of circumstances in which there might not be specific and clear guidance within Commission policies, procedures, or manuals)." Exceptional language revised to remove "AND tracks a measurable reduction in or elimination or renegotiated price impasses" and include "(with the exception of circumstances in which there might not be specific and clear guidance within Commission policies, procedures, or manuals) and ensures pricing disputes are resolved at the lowest level."
28. KPI 3, Row 1, Producing NPAs' Compliance with AbilityOne Regulatory Requirements, weight revised from 9% to 10%.
29. KPI 3, Row 2, CNA Prime Phase-out/NPA Phase-in, Removed in its entirety.
30. KPI 3, Row 3, NPAs' Training Satisfaction, Now Row 2, weight revised from 6% to 5%
31. KPI 3, Added element as Row 3, Training BVI (PWS 3.3.3.2) 5% weight.
 Unsatisfactory – CNA training programs for upward mobility and competitive placement exist but less than 70% of AbilityOne employees report satisfaction after completing the course(s)
 Satisfactory – CNA training programs for upward mobility and competitive placement exist and 70-74.99% of AbilityOne employees report satisfaction after completing the course(s)

Good – CNA training programs for upward mobility and competitive placement exist and 75-84.99% of AbilityOne employees report satisfaction after completing the course(s)
Exceptional – CNA training programs for upward mobility and competitive placement exist and 85+% of AbilityOne employees report satisfaction after completing the course(s)

****END MODIFICATION****