**DRAFT Policy 51.400**

**Effective Date: xx/xx/xx**

**TITLE: ABILITYONE COMMISSION COMPLIANCE PROGRAM**

1. **PURPOSE.**

This policy sets forth the compliance approach of the U.S. AbilityOne Commission (“Commission”) for nonprofit agencies (NPAs) participating in the AbilityOne Program (“Program”). It identifies the required frontline compliance activities of the Central Nonprofit agencies (CNAs) and the Commission’s oversight of such activities.

# APPLICABILITY.

This policy applies to the Commission, its designated CNAs, and NPAs in the Program.

# AUTHORITY.

1. 41 U.S.C. §§ 8501-8506, Javits-Wagner-O’Day (JWOD) Act
2. 41 C.F.R. Chapter 51, Committee for Purchase From People Who Are Blind or Severely Disabled

**REFERENCES:**

1. Federal Acquisition Regulation (FAR) Subpart 3.10, Contractor Code of Business Ethics and Conduct
2. FAR Subpart 9.102, Policy, Paragraph (b)(3) and Far Subpart 9.104, Standards
3. **DEFINITIONS AND ACRONYMS.**

Definitions, abbreviations, and acronyms frequently used throughout this policy system are provided in Commission Policy 51.102, and in this policy. Definitions. Terms unique to a specific subject matter are defined below.

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| **Term** | **Definition** |
| Competitive Wages and Benefits | Compensated at or above minimum wage and comparable to the customary rate paid by the employer to employees without disabilities performing similar duties and with similar training and experience. |
| Integrated Workplace | A workplace in which participating employees interact with employees without disabilities doing the same or similar work. |
| Job Customization | A flexible process designed to personalize the employment relationship between a participating employee and the NPA in a way that meets the needs of both. The process identifies the individual’s capacities, interests, and goals, as well as job supports that may be necessary for the individual to be successful on the job. |
| Career Advancement Program | A program that supports the upward employment and outward employment of participating employees. |
| Compliance Program | A program that includes oversight, review, and evaluations to determine whether an NPA is meeting the Program’s requirements, and provision of technical assistance to support an NPA’s compliance with the Program’s requirements. |
| Participating Employee | An employee who is blind and/or has a significant disability, and is counted towards the direct labor hour ratio mandated by the Javits-Wagner-O’Day Act (“JWOD”). |
| Person-Centered Employment Plan | A written vocational plan that identifies the participating employee’s strengths, goals, needs for services, and desired outcomes with respect to employment, and includes benefits counseling. |
| Technical Assistance | The process of providing targeted support and expertise to an NPA to build capability and capacity, or to resolve performance challenges. Technical assistance may include prescribing corrective actions and providing training and consulting to identify, select, or design solutions based on research or recognized best practices. |

**5. RESPONSIBILITIES.**

1. The Commission:
   1. Establishes the Program’s requirements and the framework and standards for an NPA’s compliance with such requirements.
   2. Oversees the CNA’s effectiveness in developing and implementing a compliance program.
   3. Promotes the NPA’s contract performance quality and the NPA’s provision of job customization, person-centered employment plans, and career advancement programs for participating employees.
   4. Provide oversight to and conduct oversight of NPAs as determined necessary.
2. The CNA:
   1. Establishes and maintains a compliance program for the NPAs they represent in the Program.
   2. Provides data to the Commission as needed to ensure the effective administration of the Program.
3. The NPAs:
   1. Comply with the Program’s requirements.
   2. Participate in inspections, technical assistance, and mandatory training offered by the Commission and/or the CNAs.
   3. Establish a record-keeping system for all documentation necessary to demonstrate qualifications to maintain participation in the Program.

**6. POLICY.**

1. The Commission’s framework and standards protect the Program’s integrity and ensure that the Program remains a trusted source of supply and services for Federal agencies while creating quality employment opportunities across all economic sectors for individuals who are blind or have significant disabilities.
2. The Commission’s determination that an NPA complies with the Program’s requirements is an inherently governmental responsibility.
3. The Commission carries out its governmental responsibility by:
   1. setting the framework and standards for a CNA’s compliance program;
   2. determining whether the CNA’s compliance program meets the Commission’s established framework and standards;
   3. determining whether the data that will be collected to ensure NPA’s are complying with the Program’s requirements meets the standards set forth by the Commission and ensuring that the data is transmitted to the Commission in a mutually agreeable electronic format;
   4. reviewing the CNA’s compliance evaluations of each NPA and any prescribed corrective actions;
   5. making the final determination of whether an NPA is complying with the Program’s requirements and remains qualified to participate in the Program; and
   6. conducting targeted inspection and assistance visits as it determines necessary.
4. A CNA’s compliance program is a critical tool in the Commission’s portfolio for ensuring good governance -- safeguarding the Program against vulnerability to waste, fraud, and abuse; meeting Government contract requirements; and providing quality employment opportunities for people who are blind or have significant disabilities.
5. A CNA’s compliance program shall be adequately resourced and aligned with the Commission’s standards.
6. A CNA’s compliance program shall be applied consistently and equitably across the NPAs it serves.
7. A CNA’s compliance program shall include procedures and processes to determine whether an NPA is meeting the Program’s requirements. At a minimum, these shall include procedures and processes to monitor, assess, and report how NPAs are:
   1. delivering products and services in accordance with the contract requirements while achieving a high level of customer satisfaction.
   2. creating employment opportunities that promote and achieve (1) competitive wages and benefits, (2) application of the same legal standards to participating employees as apply to other employees under employment laws, (3) job customizations, (4) person-centered employment plans, (5) career advancement programs, and (6) to the extent possible under statutory requirements, an integrated workplace.
   3. meeting the DLH ratio requirements and other statutory and regulatory requirements.
8. A CNA’s compliance program shall include an appropriate mix of in-person and virtual inspection visits to oversee and monitor whether an NPA is meeting the Program’s requirements.
9. A CNA’s compliance program shall include procedures and processes to collect and report data to the Commission in a mutually agreeable electronic format to enable the Commission to determine whether NPAs are meeting the Program’s requirements.
10. Each NPA shall meet the Program’s requirements.
11. Each NPA shall provide a level of cooperation and overall transparency sufficient to demonstrate ethical and effective operations with its CNA in accordance with statutory, regulatory, and policy requirements.
12. NPAs have an affirmative responsibility to remain knowledgeable of the Commission’s statutory, regulatory and policy requirements, and should proactively seek information or clarification when needed from the Commission or its designated CNA.
13. NPAs shall participate in technical assistance, provided by the Commission and the CNAs, to increase their capability and capacity to provide quality contract performance, job customizations, person-centered employment plans, and career advancement programs.

**7. EXCEPTION TO POLICY.**

None

**8. SUPERSESSION.**

This policy supersedes Commission Policy 51.400 dated August 15, 2020.

**9.**  **EFFECTIVE DATE.**

This policy is effective on [Add DATE of issuance.]

**APPROVED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_**

**Kimberly M. Zeich**

**Executive Director**