



U.S. ABILITYONE COMMISSION
Office of the Chair

4/6/2022

MEMORANDUM

TO: QUALIFIED NONPROFIT AGENCIES IN THE ABILITYONE PROGRAM

FROM: Jeffrey A. Koses, Chair
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Jeffrey A. Koses
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SUBJECT: AbilityOne Flexibilities Related to the Coronavirus (COVID-19) Emergency and Recovery for the Duration of Fiscal Year 2022

The COVID-19 pandemic recently passed the two-year anniversary mark. The U.S. AbilityOne Commission extends its appreciation to all qualified nonprofit agencies and essential workers for your contributions to the continuity of Government operations and response to the national emergency. The Commission's paramount concern remains the health and safety of all AbilityOne Program employees, Federal employees, and individuals interacting with our collective workforce.

This memorandum provides guidance regarding certain exceptions to the overall direct labor hour (ODLH) ratio requirement established by the Javits-Wagner-O'Day (JWOD) Act (41 U.S.C. 8501-8506), the Commission's implementing regulations (41 C.F.R. Chapter 51), and Commission Policy 51.401, Direct Labor Ratio Requirements. These exceptions may be needed in light of the unique ongoing circumstances caused by the pandemic and the variances experienced by each community. Due to COVID-19 or emergency response needs, many Federal agencies have paused, reduced, or increased demands for products or services that directly impact nonprofit agency contract performance and ODLH ratios.

Qualified nonprofit agencies experiencing or anticipating difficulty in achieving the 75 percent statutory ODLH ratio requirement by the end of FY 2022 may request an exception consistent with Commission Policy 51.401, Section 7. **To request the limited exception to the 75 percent ODLH ratio requirement, nonprofit agencies must submit the following information to the Regulatory Assistance Department of their designated Central Nonprofit Agency (CNA) no later than July 31, 2022. The CNA will review and will forward complete requests to the Commission:**

- (1) The names, locations and contract numbers for all AbilityOne or commercial contracts with the Federal Government (including all Department of Defense contracts) that are impacted by the COVID-19 emergency or recovery period;
- (2) The current ODLH ratio for each contract;
- (3) The current nonprofit agency ODLH ratio; and
- (4) An explanation as to how each contract is impacted by COVID-19.



- (5) If the ODLH ratio is expected to drop **below 51 percent**, the requesting NPA must also include a corrective action plan detailing the steps it intends to take to cure noncompliance.

Each qualifying nonprofit agency will receive written confirmation that the exception request has been received and will be notified if the exception is granted. The CNAs will submit a recommendation to the Commission regarding the approval of each exception request.

The requirement to track all hours of direct labor worked, whether by individuals who are blind or have significant disabilities or by employees who do not have qualifying disabilities, remains in effect. Further, quarterly and annual reporting requirements to the CNAs remain in place. This limited exception from Commission procedures is applicable only to Fiscal Year 2022.

This exemption pertains only to the areas described above and should not be interpreted as applicable to any other areas or regulations administered by the Commission.

The Commission will consider these requests on a case-by-case basis. Nonprofit agencies that temporarily close or cease operations due to the COVID-19 emergency should notify their designated CNA within three (3) business days.

The CNAs will track this information and keep the Commission and AbilityOne customers informed. If you have any questions or seek additional clarification of the Commission's guidance regarding compliance-related issues, please contact John Konst, Director, Oversight and Compliance, at (703) 798-6198 or jkonst@abilityone.gov.

