**Title: AbilityOne Program Nonprofit Agency Entry Qualifications**

1. **PURPOSE.**

This document sets forth the qualifications required for a Nonprofit Agency (NPA) to enter the AbilityOne Program (Program).

## APPLICABILITY.

This policy is applicable to NPAs seeking to enter the Program, designated Central Nonprofit

Agencies (CNAs), and the U.S. AbilityOne Commission (Commission).

## AUTHORITY.

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

## DEFINITIONS AND ACRONYMS.

Definitions, abbreviations, and acronyms frequently used throughout this policy system are

provided in 51.102, Definitions of Terms. Terms unique to this subject matter are defined

below.

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| **Term** | **Definition** |
| NPA Entry Qualification Application | Program entry qualification application, and supporting materials, submitted by nonprofit agencies to achieve AbilityOne Program qualification. |
| Related Corporate Entity | A corporation that is related to another corporation by common ownership, significantly overlapping board members or management, or other means of control. Some NPAs are closely related to other corporations. The NPA may be one of several subsidiaries of a common parent corporation, or the parent or subsidiary of another corporation, or may otherwise be related to one or more corporations that are either nonprofit or for-profit. |
| Qualified Nonprofit Agency | An NPA accepted by the Commission to meet the Program entry qualification requirements of 41 C.F.R. 51-4.1 and 4.2. A qualified NPA is eligible for Procurement List assignment(s) and/or allocation(s). |

**5. RESPONSIBILITIES.**

1. The Commission:
2. Establishes the standards for the AbilityOne Program’s NPA entry qualifications.
3. Approves and oversees the effectiveness of the CNA’s NPA entry qualification process.
4. Determines whether an NPA is qualified to participate in the Program.
5. The CNA:
6. Develops the NPA entry qualification process to review and evaluate an NPA’s capability to meet NPA entry qualifications.
7. Executes the NPA entry qualification process to review and evaluate an NPA’s capability to meet NPA entry qualifications and provides a recommendation.
8. Provides guidance, training, and technical assistance to NPAs seeking Program qualification.
9. Provides data to the Commission regarding the NPA’s entry qualifications in an electronic format directly and fully accessible to the Commission.
10. The NPA:
11. Completes the NPA entry qualification process, providing accurate and complete information as required.
12. Responds timely to entry qualification inquiries.

**6. POLICY.**

1. To participate in the Program, a privately incorporated nonprofit corporate entity must submit an NPA Entry Qualification Application through the appropriate CNA. The entity must further demonstrate it maintains “good standing” as a nonprofit entity, whether with the IRS, a State (if legally required), or both.
2. If an NPA’s corporate structure includes one or more related corporate entities (e.g., parents, subsidiaries, or other closely related organizations), this structure must not be a means to pass control to a for-profit corporation. An NPA related to other corporations must meet the following criteria when seeking Program qualification:
3. It must be incorporated as a separate nonprofit entity, with separate articles of incorporation and bylaws. If these documents imply or state control by another entity, that controlling entity must be another NPA whose mission also involves serving people who are blind or significantly disabled. The controlling entity’s articles of incorporation and bylaws must be submitted by the NPA seeking qualification. The NPA must provide written confirmation from the controlling entity stating that it will not interfere with any requirements of the NPA to participate in the AbilityOne Program.
4. The NPA seeking qualification must maintain, separate from any related corporation, control of records including, but not limited to, payroll, accounting, and personnel.
5. If any related entity is a for-profit corporation, the NPA seeking qualification must be able to demonstrate a complete separation from that entity in the areas of finance and control of the agency (for example, separate accounting capability, separate members of the boards of directors, separate key leadership positions). Additionally, the NPA must provide documentation verifying that no private inurement will occur.
6. Each NPA participating in the Program is responsible for notifying the Commission, via its associated CNA, of changes to its relationship(s) with other related entities.
7. Agreements an NPA may have with other entities for support services to be provided to the NPA seeking qualification must not interfere with the independence of the NPA. The written support services agreement(s) providing for reimbursement at market rates should demonstrate that an arm’s length relationship exists between the NPA and the other entity.
8. An NPA may not use wage certificates authorized under section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)) to pay employees on any contract or subcontract tied to a Procurement List product or service (41 CFR 51-4.2(a)(1)(iv)). If the NPA does, or intends to, pay commensurate wages outside the Program, it must have a Department of Labor certificate in its own name.
9. [Reserved for future guidance regarding job individualization, employee career plans, and career advancement programs for participating employees.]
10. An NPA seeking Commission qualification that is operated, authorized, or established under other than state corporation laws and is not privately incorporated must submit through its CNA the appropriate documents described in 41 CFR 51-4.2.
11. At least two members of the senior management team of each new NPA shall attend specialized Program training as part of the NPA’s qualification process. Evidence of completion of this training must be submitted with the qualification request.
12. CNAs shall develop specialized Program training for new NPAs.
13. As part of the submission to the Commission, the appropriate CNA shall certify that an NPA completed the specialized Program training.
14. If entry qualification is accepted, the NPA becomes eligible for Procurement List assignment(s) and/or allocation(s).
15. After entry qualification, NPAs are responsible for meeting the requirements for maintaining qualification listed in Commission Policy 51.402 [see Draft Policy 51.402, posted February 9, 2024.] Any change to an NPA’s legal status or governing documents (articles of incorporation and bylaws) must be reported to the Commission through the NPA’s CNA, promptly but not later than 30 days following any such change, and be included in the NPA’s annual certification filing.
16. The Executive Director must approve an NPA’s change in its CNA representation.
17. **SUPERSESSION**.

This policy supersedes Commission Compliance Policy 51.402, dated March 22, 2013.

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

**Kimberly M. Zeich**

**Executive Director**