**Title: Direct Labor Hour Ratio Requirements**

1. **PURPOSE**

This policy prescribes the requirements for the required overall direct labor hour (ODLH) ratio in order for a nonprofit agency (NPA) to be qualified to participate in the AbilityOne Program (Program). It also sets forth the documentation requirements and record-keeping responsibilities of an NPA, the review and evaluation responsibilities of a Central Nonprofit Agency (CNA), and the oversight responsibilities of the Commission.

1. **APPLICABILITY**

This policy applies to the Commission, designated CNAs, and all NPAs seeking or receiving qualification to participate in the Program.

1. **AUTHORITY**
2. 41 U.S.C. §§ 8501 – 8506, Javits-Wagner-O’Day (JWOD) Act
3. 41 CFR Chapter 51, Committee for Purchase From People Who Are Blind or Severely Disabled
4. **DEFINITIONS AND ACRONYMS**

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

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| **Term** | **Definition** |
| Direct Labor | All work required for *preparation, processing, and packaging* of a product or work directly related to the performance of a *service*, but not supervision, administration, inspection, or shipping.   1. *Preparation* – Tasks involved in transforming raw materials into components of a product or the product itself, including operation of machinery that performs these activities. 2. *Processing* – Tasks involved in forming or finishing components or products, or in assembling components, or in assembling components into products. 3. *Packaging* – Tasks involved in preparing the finished product for shipment by placing it in one or more containers or wrappings to make it suitable for shipment.   *Service* direct labor is the performance of tasks directly required by, or specified in, the contract statement of work (SOW) or performance work statement (PWS). |
| Indirect Labor | Work that supports the manufacturing process or delivery of services but does not directly produce the products or services sold to a customer. Indirect labor includes supervision, administration, inspection, material handling, and shipping. Indirect labor also includes cleaning and maintenance of space or equipment belonging to the contractor and used by the contractor during the production of products or performance of services. |
| 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 JWOD Act. |

1. **RESPONSIBILITIES**.
2. The Commission:
3. Implements the statutory ODLH ratio requirement standards in the AbilityOne Program.
4. Approves the CNA’s ODLH ratio monitoring, reviewing, and evaluation processes.
5. Oversees the effectiveness of the CNA’s ODLH ratio monitoring, reviewing, and evaluation processes.
6. Conducts inspections as determined necessary.
7. The CNA:
8. Establishes an ODLH ratio review and evaluation process.
9. Provides ODLH ratio guidance, training, and technical assistance to the NPAs.
10. Provides ODLH ratio data to the Commission in an electronic format approved by the Commission.
11. The NPA:
12. Complies with ODLH ratio standards.
13. Establishes ODLH quality assurance measures that prevent and correct errors, and conducts recommended quality audits of records.
14. Establishes a record-keeping system for all documentation necessary to determine ODLH ratio.
15. Transmits ODLH ratio data to the CNA in an electronic format directly and fully accessible to the Commission.
16. Participates in all required training and education programs offered by the CNA and/or the Commission.
17. **POLICY**
18. Overall Direct Labor Hours
19. NPAs shall employ participating employees for at least 75 percent (%) of their direct labor work hours for production of products and/or provision of services, whether within the Program or outside, during a Federal fiscal year. This ratio is also called the overall direct labor hours (ODLH). A direct labor hour (DLH) ratio at or above 74.5% will satisfy the ODLH ratio requirements.
20. NPAs may request certain ODLH ratio exceptions, particularly to phase-in new Procurement List requirements or to meet a surge in contract demand.
21. If a Commission and/or CNA compliance inspection finds that an NPA’s overall direct labor hour ratio is below 75%, absent an exception approved by the Commission, corrective action will be prescribed.
22. Project Level Ratio
23. An NPA may have a lower DLH ratio on an AbilityOne Procurement List project level if it maintains compliance with the 75% ODLH statutory requirement.
24. No project level ratio may be below 50% unless it has been preapproved by the Commission.
25. If a Commission and/or CNA compliance inspection finds that an NPA’s project-level DLH ratio is less than 50%, absent an approved exception, corrective action will be prescribed.
26. Subcontracting
27. The Commission may approve an NPA’s subcontract of a portion of a requirement on the Procurement List, if consistent with the Program’s objectives. Approval to subcontract will be granted at the time of addition to the Procurement List.
28. The portion of the work subcontracted is not counted in the prime contractor NPA’s AbilityOne or ODLH ratio.
29. If the subcontractor is an AbilityOne-qualified NPA, whether or not the subcontractor NPA is named on the Procurement List for that work, the subcontractor NPA shall count the direct labor hours in its (requirement-performing NPA’s) AbilityOne and ODLH ratio.
30. Unless specifically authorized by the Commission, the requirement of a subcontracting NPA to count DLH towards its AbilityOne and ODLH ratio does not qualify the subcontracting NPA as a mandatory source under 41 U.S.C. 8504(a) and 41 CFR 51-5.2.
31. The Commission values an NPA’s use of subcontracting with non-AbilityOne NPAs to increase workplace integration on the contract and create avenues for upward and outward mobility for participating employees and will assess the benefits of such subcontracting when considering a new PL addition, consistent with Commission policy.
32. For an existing contract, an NPA that desires to enter a new subcontract for purposes of achieving workplace integration and employment mobility for employees who are blind or have significant disabilities must first obtain written Commission approval.
33. Under no circumstance(s), absent prior written Commission approval, may an NPA subcontract the entire order for a product or a service requirement that is on the Procurement List.
34. **PROCEDURES.**
35. NPAs shall record and include in their ODLH ratio calculations the hours of any employee (see Commission Policy 51.403, effective January 1, 2024) who performs direct labor, regardless of title, hours worked, or who is paying the individual. This includes temporary employees.
36. NPAs must submit corrected quarterly reports to the appropriate CNA, for the current fiscal year, when any employee’s hours reported as direct labor are, after all technical deficiencies are remedied, subsequently reclassified for inappropriate participating employee determination.
37. The CNAs shall establish a process for quarterly collecting NPAs’ overall direct labor hours and Procurement List project direct labor hours, and establish a system to submit the data, results, and recommendations in an electronic format that the Commission can directly and fully access.
38. The NPA shall notify the CNA before entering a new subcontract that will decrease the participating employee direct labor hours performed on a Procurement List requirement. The CNA shall submit the appropriate information and its recommendation for Commission approval.
39. **SUPERSESSION.**

This Policy supersedes Commission Compliance Policy 51.401, dated August 15, 2020, and procedures 51.401-01 and -02.

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

**Kimberly M. Zeich**

**Executive Director**