

U.S. ABILITYONE COMMISSION

FISCAL YEAR 2019 PERFORMANCE AND ACCOUNTABILITY REPORT



*The U.S. AbilityOne Commission is the operating name for the
Committee for Purchase From People Who Are Blind or Severely Disabled*

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Message from the Chairperson, U.S. AbilityOne Commission

I am pleased to present the U.S. AbilityOne Commission's Performance and Accountability Report for Fiscal Year 2019. This report summarizes major accomplishments, reviews performance measures, and describes challenges that lie ahead.

FY 2019 saw my one-year anniversary as Commission Chairperson. During that time, the Commission continued to intensify its oversight of the AbilityOne Program, which furnishes more than \$3.6 billion of high-quality products and services to the Federal Government at fair market prices annually. Approximately 45,000 people who are blind or have significant disabilities are employed at approximately 500 AbilityOne-participating nonprofit agencies nationwide.

The greatest risk to the Commission continues to be its longstanding lack of adequate resources to meet growing mission requirements, an acute problem that is acknowledged in the Financial Audit section of this PAR and is a key factor in the audit's outcome. New Congressional mandates since 2016 include the establishment of (1) written agreements with the Central Nonprofit Agencies (CNAs); (2) the Office of Inspector General, and (3) the FY 2017 National Defense Authorization Act Section 898 "Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity." The Commission has highlighted this risk for years in its Congressional Budget Justifications and Performance and Accountability Reports, and Office of Inspector General Semiannual Reports and Top Management and Performance Challenges Reports. GAO also noted the Commission's lack of resources in its 2013 report on AbilityOne.

The pace of transformation in the AbilityOne Program continued to accelerate in FY 2019. The Commission's central focus continued to be on increasing employment for people who are blind or have significant disabilities, while simultaneously taking steps to increase Federal customer satisfaction. The Commission also continued its emphasis on increasing oversight, accountability and transparency throughout the AbilityOne Program, renewing its commitment to rigorous stewardship and the people we serve.

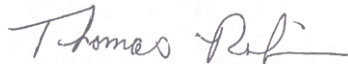
Commission accomplishments that advanced these priorities in FY 2019 included:

- Participating in the 2017 National Defense Authorization Act (NDAA) Section 898 "Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity." The Panel's first annual report to Congress in July 2018 contained more than 40 recommendations, some of which the Commission completed in FY 2019, and others which are being implemented.
- Re-negotiating the renewals of Cooperative Agreements with two CNAs -- National Industries for the Blind (NIB) and SourceAmerica -- while continuously monitoring and evaluating the execution of those agreements.

- Monitoring the performance and progress of the American Foundation for the Blind (AFB), the newest CNA, as it executes the research-and-study phase of its Cooperative Agreement with the Commission. The Commission designated AFB as a CNA in 2018 to place greater emphasis on knowledge-based jobs such as IT, finance and health care at a time when changes in employment trends point to a different future for AbilityOne jobs.
- Initiating the first AbilityOne competition pilot test, in which nonprofit agencies competed for the Facility Support Operations Services contract at Fort Bliss, Texas. Launched in accordance with one of the 898 Panel recommendations, the pilot was still in progress at the end of FY 2019. The pilot shows a path to improving contractor performance while regularly achieving cost savings for Federal customers, and, by extension, taxpayers.
- Calling for an end to the payment of subminimum wages on SourceAmerica's AbilityOne contracts, a step that amplifies Commission's March 2016 "Declaration in Support of Minimum Wage for All People Who Are Blind or Have Significant Disabilities." As a result, SourceAmerica concurred, and is currently executing an implementation plan. This action further aligns the Commission and Program with the prevailing sentiment in the disability community, and contributes to positioning the Commission as a role model for employing people who are blind or have significant disabilities in the 21st century.
- Adjusting the Program Fee Ceilings for NIB and SourceAmerica, part of the Commission's oversight responsibilities in the AbilityOne Program.
- Completing a pilot study with Amazon Business that increased the Commission's knowledge about the scope and nature of e-commerce.
- Participating in the FY 2018 NDAA Section 846, Procurement Through Commercial E-Commerce Portals, which seeks to align Government purchasing to commercial practices and technology. It directs the General Services Administration, in partnership with the Office of Management and Budget, to establish a program to enable Federal agencies to procure commercial off-the-shelf items through commercial e-commerce portals.
- Continuing to increase the ability of the Office of the Inspector General to meet its mission of promoting the economy, efficiency, and effectiveness of AbilityOne programs and operations, and protecting those programs and operations against fraud, waste, abuse and mismanagement.
- Continuing to establish operations of a Western U.S. Field Office, so that distance from Washington, D.C., will not mean distance from Commission oversight.
- Continuing to build the Directorate of Veterans Employment and Initiatives (DVEI), so that the AbilityOne Program can be an effective resource for veterans who face employment challenges. In FY 2019, the DVEI began designing the AbilityOne Veterans Apprenticeship Program, aimed at providing veterans with skills and accreditations that will enable them to advance professionally in several in-demand fields.

Going forward into FY 2020, the Commission remains committed to its statutory responsibility to provide oversight of the AbilityOne Program, and anticipates another year of transformational action to optimize the AbilityOne Program and support the needs of people who are blind or have significant disabilities.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas D. Robinson". The signature is fluid and cursive, with the first name "Thomas" being the most prominent part.

Thomas D. Robinson
Chairperson and Presidential Appointee
U.S. AbilityOne Commission

Section 1: Management Discussion and Analysis

1.1. Introduction

The U.S. AbilityOne Commission is the operating name for the Committee for Purchase From People Who Are Blind or Severely Disabled. As the steward of one of the Federal Government's most unique programs, the Commission oversees the AbilityOne Program, which creates private sector jobs for approximately 45,000 people who are blind or have significant disabilities while providing quality products and services to Federal departments and agencies.

The AbilityOne Program is one of the largest sources of job opportunities for a population that has historically experienced the lowest employment rate of any segment of U.S. society. The Program's benefits can be measured in the contributions of AbilityOne employees to local, state and national economies. In addition, veterans are strongly represented in the AbilityOne Program (see Section 1.10).

The AbilityOne Program provided more than \$3.6 billion worth of products and services to the Federal Government in FY 2018, the most recent year for which this data is available.¹ The jobs associated with delivering those products and services are located nationwide at approximately 500 nonprofit agencies (NPAs), across 15 time zones, from Guam to Maine.

The Commission has 15 Presidentially-appointed members supported by a 32-person staff, and is required by 41 U.S.C. 8501-8506 to designate one or more CNAs to facilitate distribution of Federal Government orders for products and services. The Commission has designated National Industries for the Blind (NIB) and SourceAmerica to facilitate the distribution of orders and provide other assistance to NPAs in the AbilityOne Program.

In 2018, the Commission designated the American Foundation for the Blind (AFB) as a CNA with focus areas including knowledge-based jobs for people who are blind. Until 2020, AFB's activities as a CNA are limited to research and studies.

Strategic goals for the AbilityOne Program are:

- Effective Stewardship
- Employee and Customer Satisfaction
- Employment Growth
- Business Excellence

¹ Most data contained in this document is from FY 2018, due to the timing of AbilityOne Program reporting cycles. Where possible, FY 2019 data will be highlighted.

The AbilityOne Program also:

- Operates at more than 1,000 locations, including the facilities of 40 government agencies
- Operates more than 150 Base Supply Centers at military installations and Federal buildings
- Provides SKILCRAFT® and numerous other office supplies, cleaning products, military clothing and equipment

Statutory functions of the Commission include:

- Establishing rules, regulations and policies to ensure effective implementation and oversight of 41 U.S.C. 8501-8506 and the AbilityOne Program it authorizes.
- Increasing employment opportunities for people who are blind or have significant disabilities.
- Determining which products and services are suitable for provision by nonprofit agencies employing people who are blind or have severe disabilities, and providing information on such items to Federal personnel through various publications and other means.
- Determining fair market prices for these products and services and revising prices in accordance with changing market conditions.
- Monitoring participating NPAs' compliance with 41 U.S.C. 8501-8506, Commission regulations and procedures.
- Assisting Federal agencies to expand procurement from NPAs participating in the AbilityOne Program, and monitoring the compliance of both with Commission regulations and procedures.
- Designating and providing guidance to CNAs that facilitate NPAs' participation in the AbilityOne Program.
- Conducting continuing study and evaluation of mission execution to ensure effective and efficient administration of 41 U.S.C. 8501-8506.

The AbilityOne Program also returns dollars to the U.S. Treasury through its contract close-out initiative which, since 2010, has identified more than \$2 billion for de-obligation.

1.2. Mission and Vision

The mission of the AbilityOne Program is to provide job opportunities to people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government.

The vision of the AbilityOne Program is to enable all people who are blind or have significant disabilities to achieve their maximum employment potential.

That vision will be realized when:

- Every person who is blind or has a significant disability and who wants to work is provided an opportunity to be employed productively.
- Every AbilityOne employee earns not only the Federal minimum wage (or higher applicable state or local minimum wage) but also a living wage and benefits package appropriate to his or her geographic locality.
- AbilityOne employees are provided the training and development they need to be successful in their current positions, and ultimately achieve their maximum employment potential.
- Every AbilityOne employee has the opportunity, with or without accommodations, to achieve his or her maximum employment potential.
- All AbilityOne products and services provide best value to Federal customers, resulting in their continued support and loyalty.

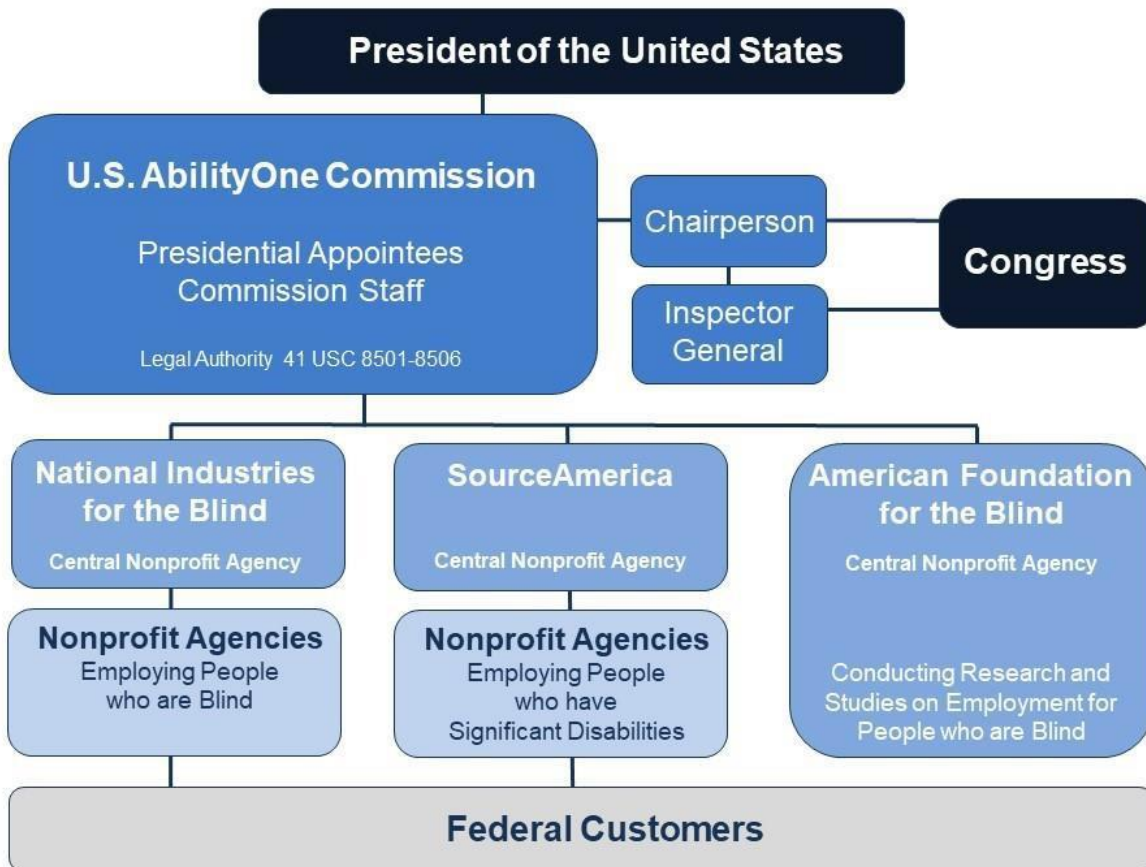
1.3. History

The 1938 Wagner-O'Day Act established a unique link between job creation and Federal purchasing power. Its focus was on providing employment for people who are blind to make products for the Federal Government. In 1971, the Act was amended to become the Javits-Wagner-O'Day (JWOD) Act, expanding the original legislation to include addressing the employment concerns of people who have significant disabilities. It also allowed participating nonprofit agencies to expand into providing services to the Federal Government. In 2006, the Committee launched the AbilityOne brand to better reflect the Program's mission and the quality of the workforce. The Committee began operating as the U.S. AbilityOne Commission in 2011.

1.4. Organizational Structure

The AbilityOne Program is directed by the Commission, which is composed of 15 Presidential appointees. Eleven are members of the Federal Government, representing agencies and departments that purchase products and services on the Program's Procurement List. The remaining four members are private citizens who represent the employment concerns of people who are blind or have significant disabilities. The Commission operates as an independent agency of the Federal Government and is staffed with 32 full-time equivalent (FTE) employees. An Office of Inspector General, established in 2016, currently operates at a separate location with four employees. The Commission has designated two CNAs, NIB and SourceAmerica, to facilitate the distribution of orders and to assist nonprofit agencies participating in the AbilityOne Program. (A third CNA, American Foundation for the Blind, was designated in 2018 and is currently in a research phase.)

Figure 1. AbilityOne Program Organization



1.5. Commission Members

Thomas D. Robinson serves as Chairperson, elected in 2018 for a two-year term. He is a career member of the Senior Executive Service (SES) for the Department of the Air Force. At the same time, the Commission elected Robert T. Kelly, Jr., as Vice Chairperson. Mr. Kelly represents the interests of NPA employees with significant disabilities. A full list of Presidential appointees who served on the Commission during FY 2019 follows:

** Members who left the Commission during FY 2019*

Thomas D. Robinson (SES)

Chairperson

Director of Contracting, Air Force Life Cycle Management Center, Wright-Patterson AFB, OH
Department of the Air Force

Robert T. Kelly, Jr.

Vice Chairperson

Representing Nonprofit Agency Employees with Significant Disabilities
Private Citizen

James M. Kesteloot

Immediate Past Chairperson (Chairperson through July 1, 2018)

Representing Nonprofit Agency Employees who are Blind
Private Citizen

Stuart Hazlett (SES) (appointed December 2018; sworn in May 2019)

Deputy Assistant Secretary of the Army (Procurement)

Department of the Army

Jennifer Sheehy (SES)

Assistant Secretary, Office of Disability Employment Policy

U.S. Department of Labor

William A. Sisk (SES)*

Assistant Commissioner, Office of Travel, Motor Vehicle and Card Services

U.S. General Services Administration

Virna L. Winters (SES)

Director for Acquisition Policy and Oversight, Office of Acquisition Management

U.S. Department of Commerce

1.6. Commission Staff

A career member of the SES serves as the Commission's Executive Director. The staff handles Commission operations and prepares information required by the Presidential appointees to make decisions.

Executive Leadership Team

Tina Ballard, Executive Director (SES)
Kimberly M. Zeich, Deputy Executive Director
Kelvin Wood, Chief of Staff
Timi Nickerson Kenealy, General Counsel
Brian P. Hoey, Ph.D., Senior Advisor

Senior Leadership Team

Amy B. Jensen, Director, Business Operations
Michael Mack, Acting Director, Oversight and Compliance
Shelly Hammond, Director, Policy and Programs
Irene Glaeser, Director, Program Management Office
Gloria Dent, Director, Veterans Employment and Initiatives

1.7. Office of Inspector General

The AbilityOne Office of Inspector General (OIG) was established in June 2016 as mandated by the Consolidated Appropriations Act 2016. The OIG's mission is to promote the economy, efficiency, and effectiveness of AbilityOne programs and operations, and protect these programs and operations against fraud, waste, abuse and mismanagement.

OIG staff

- Thomas K. Lehrich, Inspector General
- Stefania Pozzi Porter, Deputy Inspector General & General Counsel to the IG
- Marcos Contreras, Assistant Inspector General for Auditing
- Ted Glotfelty, Assistant Inspector General for Investigations

1.8. Commission Meetings

Regular Commission meetings are held on a quarterly basis; however, special meetings may be called by the Chairperson at any time. In FY 2019, the Commission held meetings as follows:

- October 16, 2018
- November 15, 2018
- February 28, 2019
- May 20, 2019
- July 25, 2019

1.9. Scope of Responsibilities

The AbilityOne Program (administered by the Commission) provides high value to its stakeholders:

- For people who are blind or have significant disabilities, the AbilityOne Program provides much-needed jobs.
- For Federal customers, the AbilityOne Program provides quality products and services, from office supplies to military clothing and equipment, at a fair market price.
- For U.S. taxpayers, the AbilityOne Program addresses a practical purchasing need of the government, while simultaneously meeting the socio-economic employment needs of underemployed people in a vulnerable population.

The Commission has focused on growing its ability to provide oversight to the CNAs and participating NPAs while continuing efforts to increase the approximately 45,000 jobs created through the program. In 2017, the Commission established the Directorate of Veterans Employment and Initiatives to increase employment opportunities and support services for veterans.

1.10. Major Activities

Participating in the 2017 NDAA Section 898 “Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity”

In FY 2019, the Commission devoted significant resources to working with the Department of Defense (DoD) and other entities on this Panel, which meets quarterly to discharge duties across a range of areas including recommending actions related to employment of veterans who are blind or have significant disabilities, as well as other people who are blind or have significant disabilities; eliminating waste, fraud, and abuse; exploring opportunities for competition among qualified nonprofit agencies or Central Nonprofit Agencies; and recommending changes to business practices, information systems and training.

According to the Panel’s charter, the mission of the Panel is to review the effectiveness and internal controls of the AbilityOne Program related to DoD contracts, and report back to Congress on ways to eliminate waste, fraud, and abuse and ensure integrity and accountability for any violations of law or regulation; to recommend changes to business practices and IT systems to facilitate compliance with the Javits-Wagner-O’Day Act; and to establish AbilityOne Program training at the Defense Acquisition University pursuant to Section 898 of the FY 2017 NDAA.

In July 2018, the Panel submitted its first annual report to Congress with more than 40 recommendations. By the end of FY 2019, the Commission had implemented several recommendations.

Initiating the First AbilityOne Competition Pilot Test

Launched as a result of the 898 Panel recommendations, the Commission initiated its first-AbilityOne competition pilot test, in which nonprofit agencies competed for the Facility Support Operations Services (FSOS) contract at Fort Bliss, Texas. The pilot test is exploring a path to improving contractor performance while achieving substantial cost savings for Federal customers and, by extension, taxpayers. The pilot test was still in progress at the end of FY 2019.

Calling for an End to Payment of Subminimum Wage on SourceAmerica’s AbilityOne contracts

In February 2019, the Commission sent a letter to SourceAmerica, calling on it to accelerate the process of ending the payment of subminimum wages on AbilityOne contracts.² Such wages are authorized by Section 14(c) of the Fair Labor Standards Act, legislation enacted in the 1930s, when it was seen as a way to improve employment prospects for people with disabilities. The Department of Labor issues 14(c) certificates, which allow for the payment of subminimum wages to people with disabilities.

The Commission’s 2019 letter builds on the Agency’s 2016 “Declaration in Support of Minimum Wage for All People Who Are Blind or Have Significant Disabilities.” The Commission sent its 2019 letter only to SourceAmerica because NIB is currently not using 14(c) certificates on AbilityOne contracts, and AFB is in a research-and-study phase.

SourceAmerica responded affirmatively to the Commission’s letter and began implementing a transition plan designed to achieve the phase-out of subminimum wages on AbilityOne contracts.

² [“Commission Calls for End to Payment of Subminimum Wages on AbilityOne Contracts at SourceAmerica Nonprofit Agencies”](#)

Renegotiating the Commission’s Cooperative Agreements with NIB and SourceAmerica

In FY 2019, the Commission completed renegotiations that refined and streamlined the Cooperative Agreements with NIB and SourceAmerica. The renegotiated agreements were signed in December 2018 (NIB) and June 2019 (SourceAmerica).

The Commission signed its original Cooperative Agreements with these two longstanding CNAs in 2016, following the requirements issued in the Consolidated Appropriations Act 2016. Since that time, the Commission has continued to monitor and evaluate the execution of the Cooperative Agreements.

The Cooperative Agreements “establish key expectations for each CNA and mechanisms for the Commission to oversee their implementation,”³ including:

- Roles and responsibilities
- Collection and expenditure of funds
- Performance goals and targets
- Standards and internal controls to prevent waste, fraud and abuse
- Periodic evaluations and audits

The agreements center around four key performance indicators that provide a framework for the Commission to assess CNAs’ performance:

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

The Cooperative Agreements have proven to be invaluable tools in furthering the Commission’s oversight of the CNAs, and are posted on the Commission’s public website.

Progress of American Foundation for the Blind as a CNA

Designated as a CNA in July 2018, AFB is the first new CNA added to the Program since 1974. Its focus areas will include knowledge-based jobs for people who are blind. In FY 2019, the Commission continued its oversight of AFB as it progresses through the first of three phases specified in its Cooperative Agreement⁴. AFB is currently conducting research and studies with objectives including:

- Identifying innovative employment opportunities/careers and lines of business for people who are blind

³ “Congressional Record” Volume 161, Number 184 (Thursday, December 17, 2015), H10292

⁴ [“Cooperative Agreement Between Committee for Purchase From People Who Are Blind or Severely Disabled and American Foundation for the Blind”](#)

- Identifying a model for continuous identification of employment opportunities, careers and lines of business
- Identifying multiple ways to identify blind veterans seeking employment, and the type of employment they desire, and providing them employment
- Identifying options the Commission, a CNA and/or an NPA may consider to increase and foster innovation in the AbilityOne Program.

AFB’s work during Phase I also includes engaging key Senior Procurement Executives at various Federal agencies, and other key stakeholders and Federal customers, in preparation for the second phase of AFB’s Cooperative Agreement. Phase II, “CNA Capability Development,” is designated as AFB’s transition period to becoming a fully functioning CNA. During this phase, AFB will take actions to implement the recommendations and findings from its Phase I research and studies. Upon approval by the Commission, AFB will begin to gradually execute the CNA regulatory requirements within 41 C.F.R. §51-3.2.

Phase III is designated as the period in which AFB will exit the study/development phases of its agreement and be considered a fully functioning CNA.

The Commission believes that AFB brings new expertise to the Program at a time when changes in employment trends point to a different future for AbilityOne jobs. In recent decades, technological developments have transformed the world economy, opening up new opportunities for knowledge work (i.e., work that involves certain kinds of expertise, education or experience, as opposed to work involving physical labor). People who are blind, or have significant disabilities, are fully capable of undertaking—and exceling in—knowledge work.

The new CNA’s emphasis on knowledge-based jobs is designed to increase the number and variety of jobs available to people who are blind, increase competitiveness within the Program, and ideally provide Federal customers with more choice in contracting with AbilityOne nonprofit agencies.

Adjusting Program Fee Ceilings of NIB and SourceAmerica

In April 2019, the Commission adjusted the Program Fee Ceilings for National Industries for the Blind (3.73 percent) and SourceAmerica (3.75 percent), effective April 15, 2019, to March 31, 2020. Adjusting the Program Fee Ceiling is part of Commission oversight of the AbilityOne Program.

The Program Fee Ceiling is a specified percentage that the Program Fee may not exceed. Formerly known as the “CNA Fee,” the Program Fee is a percentage of the sales revenue of each contract on the AbilityOne Program Procurement List. The Program Fee is paid by AbilityOne-participating nonprofit agencies to their CNA, either NIB or SourceAmerica, to fund CNA activities that facilitate the operations of the AbilityOne Program. (AFB is currently in a research phase and is not collecting Program Fees.)

Amazon Pilot Study

In FY 2019, the Commission concluded a successful pilot study that tested the functionality of an online AbilityOne storefront on Amazon Business. Launched in September 2018, the pilot met its goal of increasing the Commission's knowledge about the scope and nature of e-commerce, with particular focus on how e-commerce will affect the AbilityOne Program.

Over the course of the pilot, the Commission gained valuable insights into e-commerce, including greater understanding of AbilityOne customer and distributor perspectives on e-commerce. The pilot study was part of the Commission's ongoing effort to better understand the evolving e-commerce marketplace and its implications for the Program so as to strengthen AbilityOne and prepare it for the future.

Continuing to Build the Office of Inspector General (OIG)

The OIG's mission is to promote the economy, efficiency, and effectiveness of AbilityOne programs and operations, and protect these programs and operations against fraud, waste, abuse and mismanagement.

In furtherance of its mission, the OIG conducts audits and investigations and regularly delivers reports to Congress. The Commission appointed its first permanent Inspector General in May 2017, and the OIG was fully operational by the beginning of FY 2018.

In FY 2019, the IG issued two semi-annual reports to Congress, as required by the Inspector General Act of 1978. Additionally, the IG issued an annual report on the "Top Management and Performance Challenges" facing the Commission and AbilityOne Program. This report identified the most serious challenges as:

- Erosion of Statutory Program Authority
- Higher Level of Transparency Needed to Enhance Program Confidence
- Implementation of Cooperative Agreements given Central Nonprofit Agencies (CNA) Growth
- Lack of Adequate Resources Impacts Program Effectiveness
- Establishing an Enterprise-wide Risk Management Framework
- Enhancement of Program Compliance

Continuing to Establish Operations of a Western U.S. Field Office.

The Commission established a Western U.S. Field Office in 2017, as required by the 2017 NDAA. The Field Office mission is to strengthen Commission oversight of the AbilityOne Program, support Federal customers, and provide a swift and efficient response to performance concerns. Located at Joint Base Lewis-McChord in the state of Washington, the office oversees approximately 115 nonprofit agencies in 14 states – Alaska, Arizona, California, Hawaii, Idaho,

Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming – and the territory of Guam. The office is also currently handling many issues in the Central Region, which contains 18 states and 180 nonprofit agencies, and for which the Commission has requested funding to establish a regional Field Office there.

In FY 2019, the Commission made further progress in expanding the office's operational profile. Major accomplishments included: organizing the second structured competition of work already on the Procurement List (the first was the competition of the Fort Bliss Facility Support Operations Services contract); four compliance inspections of at-risk nonprofit agencies; and more than 25 meetings with Federal agencies related to current or potential AbilityOne Program orders (including visits to all Marine Corps on-base cafeterias in the Western Region, so as to better understand performance and price concerns in one of the largest AbilityOne Program subcontract arrangements).

The Field Office recently filled a senior price analyst position to improve region-wide analysis of contract price submission, including work site visits.

Program Management Office Activities

The Commission's Program Management Office (PMO) maintains a continuous dialogue with the CNAs in executing and evaluating the effectiveness of the Cooperative Agreements. In FY 2019, the PMO staff continued to increase understanding and strengthen relationships with CNA counterparts to enhance the two-way communication essential for the Commission's receipt, analysis, disposition and feedback for more than 100 Cooperative Agreement deliverables, as well as hundreds of related requests for information or action.

Central to the Commission's oversight of the Program, the PMO is broadly responsible for the definition and accountability for requirements, expectations, performance standards and quality assurance in the Cooperative Agreements. PMO assessments of these key elements have resulted in continuous improvement based on lessons learned and shared best practices with the CNAs.

Continuing to Build the Directorate of Veterans Employment and Initiatives (DVEI)

Established in 2017, the Directorate of Veterans Employment and Initiatives (DVEI) provides oversight, programming, and strategic planning that maximizes employment opportunities for veterans consistent with JWOD Act.

In FY 2019, DVEI focused on liaising with veterans organizations, Federal agencies, educational institutions and transition programs; participating in disability outreach symposia and wounded warrior events; operating as a clearinghouse for veterans' employment-related needs; and working to connect veterans who are ready for employment with appropriate opportunities.

The AbilityOne Program is uniquely positioned to address problems that veterans may face in getting and keeping a job. The Program has extensive experience providing employment opportunities for people who cope with potentially life-defining challenges. Moreover, the Program's mission has a long association with the goals and people of the U.S. military. DoD is the Program's largest customer, purchasing \$2.4 billion of AbilityOne products and services in FY 2019.

The AbilityOne Program continues to emphasize employment opportunities for wounded warriors and other veterans with disabilities, particularly in emerging lines of business such as software testing, facilities management and contract closeout work.

Approximately 3,000 wounded, ill or injured veterans work in direct labor jobs in the AbilityOne Program. In addition, AbilityOne NPAs employ approximately 4,000 veterans working in indirect labor positions, including supervisory and management roles. In total, approximately 7,000 veterans work at AbilityOne NPAs. The range of their military service stretches from Vietnam to the recent conflicts in Iraq and Afghanistan.

Participating in the FY 2018 National Defense Authorization Act Section 846 Commercial Platform Initiative (CPI)

The FY 2018 NDAA Section 846, Procurement Through Commercial E-Commerce Portals, directs the Administrator of the General Services Administration (GSA) to establish a program in partnership with the Office of Management and Budget (OMB) to procure commercial off-the-shelf (COTS) items through commercial e-commerce portals for procurements under the Micro Purchase Threshold.

Since the beginning of the Section 846 initiative, the Commission has worked continuously with GSA, providing regular and detailed input and feedback to ensure that AbilityOne priorities are fully considered. In addition, the Commission has regularly engaged AbilityOne stakeholders to maintain a transparent two-way flow of information and updates on Section 846-related issues and concerns.

In FY 2019, the Commission attended GSA town hall meetings hosted by senior executives, and other Section 846 meetings. The Commission contributed written responses to GSA questions, and emphasized that the mandatory nature of the AbilityOne Program must be a key element of any outcome.

In FY 2020, the Commission will continue to actively participate in the Section 846 initiative. GSA has released the Request for Proposal and intends to engage the Commission in proposal review and live test demonstration review.

Improving Information Security at the Commission

After devoting substantial energy and staff time to its information security program, the Commission improved on its 2017 performance in 2018, with the result that, in December 2018, the annual Federal Information Security Modernization Act (FISMA) audit rated the Commission’s information security program “Effective.” The 2018 FISMA evaluation issued no new recommendations or major findings for improvement. It also found that the Commission had successfully implemented 25 of 29 recommendations noted from the 2017 FISMA audit. (All four remaining recommendations have since been implemented and closed.)

The findings of the 2019 FISMA audit were as follows:

“The overall assessment of the U.S. AbilityOne Commission (Commission) information security program was deemed not effective because the tested, calculated and assessed maturity levels across the functional and domain areas received an overall rating at Level 3 – Consistently Implemented. At this level, the Commission took positive steps to implement policies, procedures and strategies; however, the Commission needs to ensure implemented actions are assessed over time to make appropriate adjustments as needed.

“The two findings from the evaluation demonstrate that improvements are needed with continuous monitoring, and information system and communication.”

The FY 2019 FISMA audit contained three recommendations that, when implemented, “should strengthen the IT system operations and assist the Commission with FISMA compliance requirements.”⁵

The Commission is currently taking active steps to address the FY 2019 FISMA audit findings.

1.11 Fraud Reduction Report

Pursuant to the Fraud Reduction and Data Analytics Act of 2015 (Public Law 114-186, 32 U.S. Code 3321), the U.S. AbilityOne Commission is reporting on its fraud reduction efforts for FY 2019 in three key areas:

1. Implementation of financial and administrative controls

The Commission has built-in separation of duties, with the Department of Agriculture serving as a contracted financial, travel, human resources, and procurement services provider through an interagency agreement, while GSA provides payroll processing through a similar agreement. Internally, most financial transactions are prepared by working level staff and are authorized/approved at a higher level.

⁵ Executive Summary, Report No. 20-01, November 21, 2019, “Evaluation of the U.S. AbilityOne Commission’s Compliance with the Federal Information Security Modernization Act (FISMA)”

2. The fraud risk principle in the Standards for Internal Control in the Government (GAO Green Book)

The Commission has a low risk of fraud in these areas:

- **Fraudulent financial reporting risk:** Financial reporting is provided by an authorized, shared financial services provider within the Federal Government. The Agency does not currently have a Chief Financial Officer. All financial reporting, including financial statements and necessary journal entries, is reviewed and approved by the Commission's Chief of Staff and the Director of Contracting and Policy prior to submission to the Office of Management and Budget. The Commission's financial statements are audited annually.
- **Misappropriation of assets:** All assets are recorded in the general ledger, inventoried and tracked in software managed by the Commission. Proper sign out procedures are incorporated for all equipment and property being removed from the property.
- **Waste of government resources and abuse of authority or position:** First, the Commission staff is provided with annual ethics training, and its leadership sets a tone of strong individual integrity. Second, the staff members receive Whistleblower training, with respect to reporting wrongdoing. This information is posted in the headquarters office suite. Third, the Commission has an active and engaged newly-established Office of Inspector General. Finally, the Commission is involved with the 2017 National Defense Authorization Act Section 898 Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity, including the Subcommittee on Fraud, Waste and Abuse.

3. OMB Circular A-123 with respect to leading practices for managing fraud risk

The Commission has designed and implemented internal controls over major processes to mitigate fraud risk. The Agency utilizes automated time and attendance, procurement, contract payments, and travel and purchase card systems located within other agencies. The Commission reviews the Merchant Category Codes and places appropriate restrictions to prevent and deter unauthorized purchases on both the purchase and the travel cards.

Agency points of contact for purchase and travel cards, as well as the financial services provider, are trained to review supporting documentation and identify any anomalies. For example, the assigned Commission staff reviews all travel receipts for reimbursement before approving travel vouchers.

The Commission's Office of Inspector General (OIG) provided training to the entire Commission and its staff on fraud detection in 2018. The OIG maintains a hotline for individuals to report suspected irregularities and fraud for further evaluation and action.

Section 2: Performance – Strategic Goals, Objectives, Updates, Next Steps

2.1. Strategic Goals Overview

Four strategic goals guide the Commission and AbilityOne Program. These goals support mission execution and performance excellence, and pertain to all participants in the AbilityOne Program. The Commission is responsible for the direction and oversight of the Program, and monitors the progress of strategic goals. The CNAs and NPAs play essential parts in achieving the strategic goals.

Goal 1. Effective Stewardship

The Commission has the ultimate responsibility for the integrity, effectiveness and overall stewardship of the AbilityOne Program. Stewardship includes oversight responsibilities related to monitoring and achieving compliance with statutory, regulatory and other requirements by all NPAs participating in the AbilityOne Program. The Commission continues to reinforce Program stewardship through its ongoing monitoring and evaluation of the effectiveness of the Cooperative Agreements signed with the CNAs, and through the build-up of the OIG.

Goal 2. Employee and Customer Satisfaction

To truly empower an individual, employment must provide both personal satisfaction and income. The Commission emphasizes and fosters employee satisfaction, particularly through its Quality Work Environment initiative, and tracks results. While employee satisfaction is vital in its own right, it is also a driver of the second and equally important facet of this goal – customer satisfaction.

Ensuring excellent customer service earns the loyalty and support of Federal customers and is essential to fulfilling the employment mission of the AbilityOne Program. Federal customer interest in the AbilityOne Program is evidenced in the recommendations in the first report to Congress from the 898 Panel.

Goal 3. Employment Growth

Employment growth is the most critical goal in the AbilityOne mission and the most important key performance indicator in the Cooperative Agreements. While the AbilityOne Program currently provides employment to approximately 45,000 individuals, there are still millions of Americans who are blind or have significant disabilities who are currently unemployed or underemployed. Since these individuals could benefit from the AbilityOne Program, it is essential to grow a wide variety of job opportunities by expanding existing products and lines of business, and by developing new markets in which the AbilityOne Program's target population wants to work and receive training.

Goal 4. Business Excellence

As the Agency responsible for administering the AbilityOne Program, the Commission executes business processes directly linked to key stakeholders and the employment mission. Three primary business processes that require attention, resources and coordination across Federal agencies are the (1) Procurement List (PL) addition end-to-end process, (2) fair market pricing (FMP) end-to-end process, and (3) aligning CNA resources to performance.

2.2. Strategic Goal: Effective Stewardship

The Commission is responsible for implementing the JWOD Act and oversight of the AbilityOne Program. Historically, the Commission's stewardship goal has focused on NPA compliance with statutory, regulatory and other unique AbilityOne requirements.

Strategic Objective 2.2.1.

One hundred percent (100%) of AbilityOne-participating NPAs are in full compliance with all statutory and regulatory requirements.

NPAs were in compliance with the direct labor hour ratio requirements of the AbilityOne Program's enabling legislation 97.1 percent of the time, according to the most recent year-end data, from FY 2018.

The Commission requires all AbilityOne-participating NPAs to comply with its statutory and regulatory requirements to maintain qualification and eligibility to participate in the Program. There is no acceptable level of noncompliance. However, AbilityOne participants are afforded the opportunity to complete a corrective action plan to remediate deficiencies. If an NPA is out of compliance, the consequences include placing the NPA on probation, requiring the NPA to make in-person reports to the Commission, suspending the NPA from consideration for AbilityOne work opportunities, and removing NPA eligibility to participate in AbilityOne.

Determining NPA compliance is an inherently governmental duty performed solely by the Commission through on-site audits and review of NPA annual reports containing certified data. The CNAs are responsible for providing education, regulatory assistance, monitoring and reporting to the NPAs. Every NPA in the AbilityOne Program must submit annual Representations and Certifications attesting to their compliance with the appropriate statutory and regulatory requirements.

The first measure of this objective has a very clear performance indicator -- the number and percentage of NPAs found in compliance with the statutory requirement to have 75 percent or more of all direct labor hours performed by people who are blind or have significant disabilities. Compliance with this requirement is based on an NPA's cumulative data for the fiscal year, which is certified by the NPA and reported to the appropriate CNA before it is submitted to the Commission.

At the end of FY 2018, 14 of the 483 participating NPAs were out of compliance with the AbilityOne Program’s 75 percent direct labor hour ratio requirement.

	<i>FY 2014 Results</i>	<i>FY 2015 Results</i>	<i>FY 2016 Results</i>	<i>FY 2017 Results</i>	<i>FY 2018 Results</i>
Nonprofits in Compliance	541/565	528/549	521/543	496/511	469/483
Percentage (Target 100%)	95.75%	96.17%	95.95% ⁶	97.06%	97.10%

Table 1. Five-Year Results for AbilityOne NPA Direct Labor Hour Ratio Compliance

The Commission analyzed the reasons for the NPAs’ failure to comply with the direct labor hour ratio requirement in FY 2018. It found that the most frequent occurrences of noncompliance were related to medical documentation and Individual Eligibility Evaluation (IEE) forms not being filled out correctly.

The Commission and CNAs also reviewed the NPAs’ compliance with other regulatory requirements and assigned corrective action as necessary. The Commission also monitored the percentage of deficiencies corrected either during or after its compliance reviews.

To remain in the AbilityOne Program, all NPAs found to be out of compliance were required by the Commission to submit corrective action plans. These plans were reviewed by the compliance staff to ensure adequacy, then monitored on a quarterly basis. No NPAs were removed from the Program in FY 2018 for uncorrected noncompliance.

Strategic Objective 2.2.2.

Completion of 120 on-site compliance reviews per year, resulting in 100 percent of all NPAs receiving an on-site review over a five-year cycle.

The second performance indicator speaks to the benefits the Commission attributes to conducting thorough, on-site compliance inspections or, in the absence of a Commission inspection, having the CNAs conduct regulatory assistance visits in accordance with the Commission’s guidance. From FY 2010 to FY 2016, the Commission staff completed nearly 500 NPA on-site reviews, reaching more than 80 percent of all AbilityOne NPAs. The Commission also began conducting virtual compliance inspections during this period, to further extend the Agency’s reach.

When the Cooperative Agreements were established with the Commission’s two existing CNAs in 2016, the CNAs significantly increased the frequency of their regulatory assistance visits. During FY 2018, more than 380 NPAs received either an inspection by the Commission staff or a

⁶ This FY 2016 number has been corrected since its publication in the FY 2017 and 2018 Performance and Accountability Reports.

regulatory assistance review by the appropriate CNA. As the CNAs have substantially more staff and resources than the Commission, the CNAs completed the majority of such on-site reviews.

In FY 2019, the Commission staff continued to provide compliance training at CNA training conferences, as well as through one-on-one guidance to NPAs and distance learning.

The Commission staff has supported the Department of Justice and other Federal agencies in several investigations, reviewing the accuracy of documents and verifying reports and individual evaluations.

The Commission Compliance staff works closely with the OIG on civil fraud investigations, and with the Section 898 Panel to improve the process of initial qualifications to become a part of the AbilityOne Program.

2.3. Strategic Goal: Employee and Customer Satisfaction

Enhancing AbilityOne employee satisfaction in turn enhances customer satisfaction, which in turn leads to additional employment opportunities for the Program. Employee satisfaction also demonstrates that the quality of AbilityOne employment is as important as the quantity of AbilityOne jobs created and sustained.

Strategic Objective 2.3.1.

Increase and sustain AbilityOne employee satisfaction through a continuous feedback process, followed by actions to integrate the feedback into Program improvements.

The central metric for this objective is the AbilityOne Program's Quality Work Environment (QWE) initiative, launched in 2010 to improve the experience and satisfaction of all employees at AbilityOne-participating nonprofit agencies with an emphasis on people who are blind or have significant disabilities. More information on the [QWE initiative](#) can be found on the Commission's website.

Overall, 81 percent of AbilityOne employees were satisfied with their jobs and felt proud of their work (86 percent), according to the latest QWE survey, performed in 2016. They received the tools and equipment to do their jobs well (84 percent). Their work area was safe (88 percent) and accessible (86 percent), and 89 percent would recommend their NPAs as employers.

To put job satisfaction in perspective, the AbilityOne employees' 81 percent satisfaction rate is more than the national job average satisfaction rate as reported by the Conference Board (approximately 50 percent in 2016) and the Federal Employee Viewpoint Survey on Global Satisfaction rate (68 percent in 2017).

The survey results provide opportunities to identify NPAs with best practices in training and recognition so that the NPAs can share their experiences and best practices of how to support employees within the AbilityOne community.

Continuing the QWE initiative remains a top priority for the Commission. QWE focuses on four key areas that correlate with AbilityOne employee satisfaction:

- (1) Increasing wages through increased productivity
- (2) Providing navigation to supports, services and training
- (3) Articulating a defined career ladder for employees, and defining steps to climb the ladder
- (4) Ensuring an integrated, engaging workplace culture

NPAs that adopt the QWE initiative first conduct self-assessments using the AbilityOne standardized survey, then create and implement action plans, making periodic reports to their CNAs.

Best practices disseminated through the QWE initiative include employee involvement, training and development, and employee benefits – all of which correlate positively with elements of job satisfaction most desired by AbilityOne employees.

The Commission established an end goal of full participation in the QWE initiative across the AbilityOne Program. The annual targets and measures have evolved from the percentage of NPAs participating to the percentage of AbilityOne *employees* participating in QWE. QWE is a voluntary program, and participation levels rose to 87 percent of employees working on AbilityOne contracts at the end of FY 2019. Reaching the final 13 percent of AbilityOne employees will require a high adoption rate among the remaining, often smaller NPAs to move the needle.

Other Commission activities to advance the QWE initiative in FY 2019 included updating QWE-related language in the Cooperative Agreements with the CNAs; presenting a proposal for a new Employee Enhancement Initiative to the QWE Steering Committee and receiving the committee's feedback; adding a new "Financial Planning" element to the QWE Topic Based Assessment Guidebook; and briefing the Section 898 Panel on the QWE Initiative.

Strategic Objective 2.3.2.

Increase and sustain AbilityOne Federal customer satisfaction through a continuous feedback process, followed by actions to integrate the feedback into Program improvements.

In FY 2019, the Commission's work with the multi-agency members of the Section 898 Panel provided the Commission with regular feedback from AbilityOne customers from DoD, the military services and other Federal agencies.

Other FY 2019 activities aimed at increasing and sustaining Federal customer satisfaction included the Commission's Business Operations team providing approximately 10 training sessions on AbilityOne and the PL process to Federal customers including the Defense Acquisition University, U.S. Courts, and GSA.

Additionally, as part of revising Commission-related sections of the Code of Federal Regulations, the Commission’s Director of Contracting and Policy reviewed approximately 200 comments from Federal agencies responding to the proposed revisions. The Commission addressed the comments, and received further feedback on underlying issues, in meetings with a wide range of Federal agencies.

2.4. Strategic Goal: Employment Growth

The Commission’s #1 goal for the AbilityOne Program is to increase employment. The Program creates and sustains employment opportunities for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government. The Commission monitors employment in terms of jobs created and sustained – in particular, the number of direct labor⁷ hours worked by AbilityOne employees.

AbilityOne employment growth strategies revolve around increasing Federal agencies’ procurement of both existing and new products and services on the PL. The Commission works to ensure that Federal agencies are aware of, and comply with, the AbilityOne mandatory source requirements, and that they do not diminish AbilityOne job opportunities by purchasing alternative products or services. Additionally, the designation of AFB as a new CNA represents the Commission’s determination to create new knowledge-work jobs for people who are blind or have disabilities.

Strategic Objective 2.4.1.

*Increase employment opportunities and quantity of work by people who are employed through the AbilityOne Program.*⁸

The latest Program-wide employment data (FY 2018) showed that year-over-year employment rose .4 percent overall, reflecting a 3.4 percent increase for the products sector and a .4 percent decline for services. Direct labor hours rose 1.9 percent Program-wide. A total of 1,310 employees in the AbilityOne Program received promotions, a 15 percent decrease from the previous year.

AbilityOne employment continues to suffer as a result of the Department of Education’s Workforce Innovation and Opportunity Act guidance, which removed incentives for state vocational rehabilitation services to place candidates into AbilityOne jobs.

⁷ Per [41 U.S.C. 8501](#) “The term ‘direct labor’—(A) includes all work required for preparation, processing, and packing of a product, or work directly relating to the performance of a service; but (B) does not include supervision, administration, inspection, or shipping.”

⁸ The language of this objective has been updated to correlate with the [Cooperative Agreements](#).

	FY 2017	FY 2018	% Change
Direct Labor Hours	46,935,026	47,840,847	1.9%
Employees	43,831	44,006	0.4%
Promotions	1,541	1,310	-15%
Wages	\$626.2M	\$656.2M	5%
Sales	\$3,345,304,577	3,607,749,461	7.9%

Table 2. AbilityOne Program Employment Data through September 30, 2018 ⁹

The Cooperative Agreements with NIB and SourceAmerica require each to submit Employment Growth Plans and quarterly updates. The Commission is working with the CNAs and AbilityOne customers to seek new product or service opportunities to add to the Procurement List. PL additions are the lifeblood of employment growth because they translate into direct labor hours in the following years.

Products added to the Procurement List in FY 2019 include:

- 5 Wheel Round Dollies
- Air Filter Parts Kit
- Airborne Tactical Assault Panel
- Anti-Static Screen Cleaner
- Battery, Lithium Non-rechargeable
- Cable Ties
- Dinnerware Kit
- Drug Testing Cups
- Engine Piston Assembly Parts Kit
- Handle, Extension, Fiberglass 5'-10'
- Jumbo Roll Toilet Tissue
- Kitchen Towel Rolls
- Lens Cleaning Towelettes
- Liquid Fuel Filter Separator
- Microfiber Dust Mop
- MOLLE 4000 Airborne Rucksack
- Military Resale, All Purpose Spray Bottle
- Military Resale, Assorted Dog Products
- Military Resale, Christmas Platters Include Shipper

⁹FY 2017 wages and sales have been adjusted since original publication.

- Military Resale, Collapsible and Laminated Bags
- Military Resale, Gear to Go Containers
- Military Resale, Lunch Bags and Boxes
- Military Resale, Marshmallow Skewer, Includes Shipper
- Military Resale, Oval Roasting Pan
- Military Resale, Roasting Bags
- Military Resale, Salad Chopper with Bowl
- Military Resale, SKILCRAFT OXO Kitchen Organization
- Military Resale, SKILCRAFT Parchment Paper
- Military Resale, SKILCRAFT Placemat
- Military Resale, Sponge Duo
- Military Resale, Spritz and Go Mop
- Multifold Towel
- Non-rechargeable Batteries
- Paper Bowls
- PC USB Keyboard
- Power Panel Program, Military Resale Series 8000 - 9999
- Scouring Pads
- Single Chain Assembly
- Squeegees, Brushes, and Handle
- Standing Desk
- Urban Operations Kits
- Wheel Track Chock
- Windshield Wiper Blades, Arm and Refill Blades

Services added to the Procurement List in FY 2019 include:

- Administrative Service, U.S. Army Corps of Engineers, Huntsville, AL
- Base Supply Center at Naval Research Laboratory, Washington, DC
- Custodial Service, Joint Base Elmendorf-Richardson, Anchorage, AK
- Custodial, General Services Administration Region 3, Clarksburg Post Office, Clarksburg, WV
- Custodial, Program Executive Office Soldier, Fort Belvoir, VA
- Custodial, U.S. Air Force, Columbus Air Force Base, Columbus, MS
- Detainee Meals, Department of Homeland Security/Customs and Border Protection, Area Port of Calexico, Calexico, CA
- Facilities Maintenance Services, U.S. Coast Guard Shore Infrastructure Logistics Center BSS, U.S. Coast Guard Training Center (TRACEN), Yorktown, VA
- Facilities Management, Custodial and Billeting Services, Fort Indiantown Gap, PA
- Facility Support Investment, Naval Facilities Engineering Command Northwest, Multiple Locations
- Grounds Maintenance and Snow Removal Services, Naval Station Newport, RI
- Grounds Maintenance, Basewide, U.S. Air Force, Cannon Air Force Base, NM
- Grounds Maintenance, Federal Aviation Administration, Charleston Airport Traffic Control Tower, North Charleston, SC

- Grounds, Federal Aviation Administration, Norfolk Airport Traffic Control Tower, Virginia Beach, VA; Patrick Henry Field Airport Traffic Control Tower, Newport News, VA
- Janitorial Service, Federal Aviation Administration, Peachtree-DeKalb System Support Center, Chamblee, GA
- Janitorial Service, U.S. Navy, NEXCOM Food Court, Norfolk Naval Air Station, Norfolk, VA
- Mail Center Operations, U.S. Air Force, Arnold Engineering Development Complex, Arnold Air Force Base, TN
- Mailroom Operation, U.S. Air Force, Cannon Air Force Base, NM
- Mailroom Service, Centers for Disease Control and Prevention, Hyattsville, MD
- Messenger Services, Department of Homeland Security/Customs and Border Protection, Area Port St. Thomas, USVI
- Promotional Recruiting Material Services, U.S. Property and Fiscal Office CT
- Records Digitization, U.S. Property and Fiscal Office Ohio, Ohio Army National Guard, Columbus, OH
- Systems Integration Lifecycle Support, Defense Health Agency, Falls Church, VA
- Verbatim Transcription Services, Commander Navy Installations Command, Office of Inspector General
- Waste Collection Service, Naval Facilities Engineering Command Mid Atlantic, Naval Submarine Base New London, Groton, CT

Strategic Objective 2.4.2.

Effective advocacy will increase Federal agencies' utilization of the AbilityOne Program.

This objective pertains to education and outreach, particularly by members of the Commission, to inform Federal employees about the benefits of the AbilityOne Program and to increase AbilityOne utilization. Advocacy, in this context, means working to ensure that Federal agencies comply with the AbilityOne mandatory source requirements and do not purchase substitute items which detract from AbilityOne employment. At the same time, advocacy includes establishing strategic alliances with other Federal agencies and commercial business partners, to expand awareness of the AbilityOne mission and its workforce's capability.

In FY 2017, the Commission demonstrated its support for the AbilityOne Program's mandatory source status by implementing an updated policy and procedure to more closely monitor the sales of commercial distributors of AbilityOne products. As of the end of FY 2018, the percentage of "leakage" or sale of products that are essentially the same as AbilityOne products decreased substantially, from approximately 10 percent leakage within certain Government sales channels to less than three percent. Ensuring that AbilityOne products are purchased whenever they are required helps to sustain the manufacturing and packaging-related jobs in the AbilityOne Program.

The Commission's government members are senior leaders within Federal agencies in areas such as procurement, finance, logistics, or vocational rehabilitation (see listing in Section 1.5). As such, they are in prominent positions to communicate within their agencies about the benefits of the AbilityOne Program and to encourage its support. For example, with leadership from

Chairperson Thomas D. Robinson, the Air Force has convened a group of **AbilityOne Representatives (“ABORS”)** across the various Air Force commands to identify opportunities that may be suitable for the AbilityOne Program. The Commission’s private citizen members are well respected in the broader disability community and perform advocacy to facilitate communication opportunities for AbilityOne participants and public policy thought leaders.

2.5. Strategic Goal: Business Excellence

Within the Business Excellence goal, the Commission’s focus is on improving the efficiency and efficacy of three critical business processes:

- (1) Procurement List addition process, which generates employment, as discussed above
- (2) Fair market pricing policy and procedures
- (3) Program Fee determination and implementation process

Strategic Objective 2.5.1.

Improve the Procurement List end-to-end process.

To improve the Procurement List end-to-end process, the Commission has been updating manuals for its Procurement List Information Management System (PLIMS), working in collaboration with NIB and SourceAmerica. The updated manuals will clarify guidance on what information NIB and SourceAmerica need to provide when adding products and services to the Procurement List. This improved guidance should reduce the number of submissions that arrive with errors or incomplete information, which delays project finalization. The updated manuals will help smooth and streamline the Procurement List end-to-end process. In FY 2019, updates to almost all the manuals were completed. Work on the remaining not-yet-updated manual will continue in FY 2020.

Strategic Objective 2.5.2.

Improve the Fair Market Price (FMP) end-to-end process.

By statute, the Commission is responsible for establishing the fair market price (FMP) for products and services on the Procurement List. The second objective under this strategic goal is twofold – both to “Lean” the pricing process in terms of shortening cycle time, and to improve the transparency and competitiveness of AbilityOne pricing.

In FY 2019, as part of its efforts to increase transparency of AbilityOne pricing, the Commission continued to revise its pricing procedures. Several key revisions are now nearly complete. Within the AbilityOne Program, the Commission’s continuing task is to find ways to reduce the cost of the Program, particularly to reduce the price of AbilityOne products and services to our customers, while ensuring that we do everything possible to protect the employment of people who are blind or have significant disabilities.

Strategic Objective 2.5.3.

Align CNA Program Fees to core strategic goals of the AbilityOne Program.

This objective pertains to Commission oversight and evaluation of the CNAs' use of resources. The CNAs are private entities, and are not funded by appropriation, but instead receive a Program Fee of nearly 4 percent of AbilityOne Program sales. The authority for the CNAs to collect a fee was initially established in the Commission's regulation at 41 C.F.R. 51-3.5.

Prior to FY 2016, the Commission reviewed the CNAs' annual business plans and projected revenues, evaluated the resources needed to perform the CNAs' duties, and set a ceiling on fees. The CNA Fee was approved to facilitate the distribution of orders by direct allocation, subcontract or other means. This fee was also used to provide technical and financial support to AbilityOne-participating NPAs and to execute the CNAs' responsibilities in the JWOD Act, Regulations and Policy. The Commission considered the employment numbers and other results from each previous year in comparison to the CNAs' plans, and decided whether to maintain or change the fee ceiling accordingly.

In 2016, the Consolidated Appropriations Act required the Commission to establish written agreements with the CNAs. These agreements changed the term "CNA Fee" to "Program Fee" and provided the means to base the fee on CNA performance in lieu of business plans.

The Cooperative Agreements signed in 2016 address roles and responsibilities, performance, reporting and the collection of Program Fees. The Cooperative Agreements also specify unallowable costs and link fee collection to performance. Through the Cooperative Agreements' Performance Work Statements and Quality Assurance Surveillance Plans, the Commission will have more robust oversight of the CNAs' duties and outcomes.

At the beginning of FY 2019, fee ceilings were 3.9 percent for NIB and 3.85 percent for SourceAmerica. In April 2019, the Commission adjusted the Program Fee Ceilings for NIB and SourceAmerica: Effective April 15, 2019, to March 31, 2020, the new Program Fee Ceilings are 3.73 percent for NIB and 3.75 percent for SourceAmerica. (AFB is currently in a research phase and is not collecting Program Fees.) The current fee provides more than \$100 million annually in combined revenue to the CNAs, which collectively have more than \$100 million in reserves and assets.

Section 3: Other Information

3.1. Major Management Priorities, Challenges and Risks

Management Priorities

Major management priorities in FY 2019 were¹⁰:

- 1) Continued implementation of the Commission's Cooperative Agreements with NIB and SourceAmerica.
- 2) Participating in the 2017 National Defense Authorization Act Section 898 Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity. Related challenges for the Commission include:
 - Inadequate funding and resources.
 - Workload priorities that must be reassessed and reassigned to actively participate in developing recommendations that will shape the future of the Program.
 - Strict requirements for implementing recommendations
 - Shifting priorities and the need for changing personnel skills and staff as the Commission implements the recommendations.
- 3) Increasing the capability and capacity of the Western U.S. Field Office.
- 4) Increasing the capacity of the Office of Inspector General.
- 5) Continuing to expand the Directorate of Veterans Employment and Initiatives.

Management Challenges

The central challenge to these priorities is a lack of capacity caused by insufficient resources. The Commission has had flat funding since FY 2017, which is effectively reduced funding due to the impact of cost of living adjustments, step increases, transit subsidies and inflation. At the same time, the Commission has met a growing number of Congressional mandates. The Commission needs more resources in order to meet these mandates and continue transforming the AbilityOne Program.

¹⁰ For further details of related activities, see Section 1.10, Major Activities, in this report.

Management Risks

Potential risks include:

- An increase in non-compliance within the Program.
- Vulnerability to fraud, waste or abuse.
- Continuing stagnation of employment growth.
- Potential loss of Federal agency/customer confidence in the AbilityOne Program.
- Potential reduction of the existing jobs of people who are blind and or have significant disabilities in the AbilityOne Program.

3.2. Cross-Agency Collaborations

The most significant cross-agency collaboration in FY 2019 was the Commission's work with the 2017 NDAA Section 898 "Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity"; and in particular, the joint efforts to update pertinent Defense Acquisition University (DAU) Training. The Commission is devoting major portions of its limited resources to the Panel to ensure that its stakeholders receive the necessary support. In July 2018, the Panel submitted its first annual report to Congress, with more than 40 recommendations, which the Commission has begun to implement. However, Commission resource limitations hinder the implementation of the recommendations.

Section 898 Panel requirements for updating DAU training reinforce the Commission's longtime partnership with DAU. The Commission and DAU already have a Memorandum of Agreement that provides access to DAU contracting courses for Commission staff and AbilityOne employees who are blind or have significant disabilities. This agreement has enabled more than 200 individuals who are blind or have significant disabilities, including 32 wounded warriors or service-disabled veterans, to train and prepare for employment in contract closeout activities. DAU has worked closely with NIB to ensure full accessibility of the course materials for students who are blind or have visual impairments.

Beyond the panel, the Commission itself is a cross agency collaboration, as appointees from 11 different Federal agencies come together to determine how to increase employment for people who are blind or have significant disabilities through the delivery of products and services to the government.

3.3. Evidence Building (Research and Evaluation)

The AbilityOne Program's strategic goals and objectives were developed with stakeholder input and transparency to ensure they were well informed, well communicated, specific, time-bound and measurable. The Commission relies on the annual program data collected to evaluate the AbilityOne Program's progress and efficacy in achieving these goals and objectives. The Commission's public meetings are often devoted to review and discussion of program data, analysis of such data, and strategies to enhance performance.

The Commission reviews both annual and quarterly data, such as changes in the number of Program employees, direct labor hours, wages, outplacements made to competitive employment, and adoption of best practices in the work environment. This information enables the Commission to gain a better understanding of the NPAs that participate in the Program and the AbilityOne employees themselves. The average hours worked per AbilityOne employee and the number of employees per NPA are two examples of evidence that has informed Commission decisions or policy positions.

The Commission has requested and received additional data collection authority under the Paperwork Reduction Act. The Commission now collects specific data on the employment of veterans under the AbilityOne Program, to better evaluate the AbilityOne Program's outreach to and opportunities for veterans. The Commission also collects more specific and thorough NPA performance data through Annual Representations and Certifications. The additional data captures small business subcontracting and compliance with Federal contracting requirements, among other elements relevant to NPA performance.

See Section 2.4.1. for the AbilityOne Program's latest annual data.

3.4. Data Validation and Verification

Most of the key program data used for analysis and reporting is collected from each participating NPA in the AbilityOne Program. The source data are well defined and documented in the Commission's compliance procedures disseminated by the CNAs. The Commission and the CNAs utilize on-site audits, to the extent practical, and technical support visits to educate NPAs and verify that their collection techniques are valid and accurate. Before it is submitted to the Commission on the Representations and Certifications form, the NPA's annual program data must be verified and certified by the head of the NPA and an officer of its Board of Directors. In addition, the data is initially provided to the appropriate CNA for its review. The data will not be accepted if it is incomplete or contains discrepancies.

The data is generated and transmitted electronically to reduce the potential for errors in data entry. A senior officer from the appropriate CNA must sign off on the data, certifying it to be accurate to the best of his/her knowledge. Finally, the Commission staff conducts data analysis looking for potential issues and requests verification of those found. A thorough reconciliation process is executed each year to ensure data accuracy.

3.5. Lower Priority Program Activities

The President's Budget identifies the lower-priority program activities, where applicable, as required under the GPR Modernization Act, 31 U.S.C. 1115(b)(10). The public can access the volume at <http://www.whitehouse.gov/omb/budget>. Neither the Commission nor the AbilityOne Program is listed among the lower-priority program activities.

3.6. Assessment of Reliability and Completeness of Financial and Performance Data

Two material weaknesses in internal control over financial reporting were identified during the FY 2019 financial audit: 1) Financial Statements and Footnotes Were Not Prepared in Accordance with Generally Accepted Accounting Principles and OMB Circular A-136; and 2) Year-End Accrued Liabilities Not Estimated or Accurately Recorded.

In addition, the audit also included two findings relating to noncompliance with laws and regulations: 1) a Management Assurance Statement Was Not Prepared; and 2) Potential ADA Violation Relating to the Obligation of Expired Funds.¹¹

The Commission's financial statements are audited annually. The Commission provides performance information based on both Commission and AbilityOne Program data. In addition, the Commission provides financial information based on its internal information, as well as information provided by the Department of Agriculture, with which the Commission contracts for financial, travel, human resources, and procurement services. Payroll processing is provided through an interagency contract with GSA. The Commission contracts with these other federal agencies for support due to the lack of resources to perform such functions internally. Such interagency agreements are routine for small independent agencies such as the Commission.

Regarding performance data, most of the key program data used for analysis and reporting is collected from each participating NPA in the AbilityOne Program. See Section 3.4., Data Validation and Verification, for related details.

The Agency and OIG currently have a combined operating budget of \$8.25 million. The Agency and OIG contract for services including compliance, human resources, audit, veteran analyst, network, information technology help desk and cybersecurity support services. The Agency has several Unfunded Requirements (UFRs) that have remained unfunded due to budget constraints. Both the Agency and OIG have requested additional funds in prior, current and future budgets.

During the fourth quarter of FY 2019, the Commission worked with its Shared Services Provider, USDA, which provides financial management support to the Agency and OIG, to ensure all obligations and expenses were executed properly and all operating funds were obligated. After a review of the FY 2018 end-of-year reports, the Agency was advised that \$687,000 had not been obligated and remained as unspent funds. The Agency was unable to obtain an adjusted financial statement addressing the audit report's finding on this issue, or an explanation regarding this

¹¹ ADA is the Antideficiency Act.

material variance. The Agency was advised by its Shared Services Provider that it could utilize prior year funds for UFRs in the current fiscal year. The Agency, with the approval of USDA Finance, obligated the remaining FY 2018 prior year funds for contract support services.

The Commission has requested increased funding in its Congressional Budget Justification to address a sharp rise in mission requirements due to Congressional mandates. The Agency is working with GSA to ensure Shared Services Providers meet the requirements outlined in the Service Level Agreements with the Shared Services Providers, OMB Circular A-123 and Generally Accepted Accounting Principles.

3.7. Management Assurance Statement

The Commission management is responsible for managing risks and maintaining effective internal control to meet the objective of Sections 2 and 4 of the Federal Managers' Financial Integrity Act of 1982 (FMFIA). For FY 2019, the Agency conducted a partial review of internal controls, and relied on its Shared Services Provider (SSP) to conduct the remainder of the review. The Commission relied on its SSP to conduct its assessment of risk and internal control in accordance with Office of Management and Budget Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control.

Prior to the FY 2019 financial audit, the Commission had received four consecutive unmodified audits. However, for FY 2019 the Commission received an adverse opinion due to two material weaknesses in internal control over financial reporting, two significant deficiencies in internal control over financial reporting, and two instances of noncompliance with Laws, Regulation, and Other Matters.

Based on the results of the assessment, the Commission has requested that the SSP conduct an internal review of all financial processes to ensure compliance with OMB Circular No. A-123 and Generally Accepted Accounting Principles (GAAP). The Commission will also establish monthly and onsite budget and financial reviews with its SSP to provide reasonable assurance that internal control over operations, reporting, and compliance remain in compliance.

Appendix I – Top Management and Performance Challenges

The Inspector General for the Commission for Purchase From People Who Are Blind or Severely Disabled (operating as the U.S. AbilityOne Commission) issues an annual Top Management and Performance Challenges Report. In accordance with the Reports Consolidation Act of 2000 (P.L. 106-531), this report follows as part of the Agency Performance and Accountability Report (PAR) for FY 2019.




Office of Inspector General
Committee for Purchase From People
Who Are Blind or Severely Disabled
(U.S. AbilityOne Commission)

December 2, 2019

MEMORANDUM

FOR: Thomas D. Robinson
Chairperson
U.S. AbilityOne Commission

FROM: Thomas K. Lehrich 
Inspector General

SUBJECT: Top Management and Performance Challenges Report

In accordance with the Reports Consolidation Act of 2000, the Office of Inspector General (OIG) reports on the most serious management and performance challenges facing the U.S. AbilityOne Commission, for inclusion in the Commission's Performance and Accountability Report (PAR) for fiscal year 2019.

The U.S. AbilityOne Commission (Commission) designates Central Nonprofit Agencies (CNAs) to facilitate the employment of people who are blind or have significant disabilities, and the dynamics of the CNAs in the program are changing and growing. Our reporting reflects on, and seeks to assist in, this challenging environment. OIG met with the Commission leadership to understand their perspective on the challenge areas, and OIG requested feedback from the Agency's officials regarding the challenges. In this year's Top Management and Performance Challenges Report we include as the most pressing challenges: transparency, erosion of statutory program authority, implementation of the cooperative agreements, inadequate resources, needed enhancements to program compliance, and a lack of risk management.

We thank you for your support of our mission, and we look forward to working with the Commission and the AbilityOne stakeholders, as the OIG continues its oversight mission.

Enclosure: Top Management and Performance Challenges Report

Top Management and Performance Challenges Report

Introduction

In accordance with the Reports Consolidation Act of 2000 (P.L. 106-531), the Office of Inspector General (OIG) reports on the most significant management and performance challenges facing the U.S. AbilityOne Commission (Commission), for inclusion in the Commission's Performance and Accountability Report (PAR) for fiscal year (FY) 2019.

The challenge areas identified are connected to the Commission's mission to provide employment and training opportunities in the manufacture and delivery of products and services to the Federal Government of the United States for people who are blind or have significant disabilities.

The OIG identified the top management and performance challenges (TMPC) for fiscal year (FY) 2019 as:

- Higher Level of Transparency and Communication Needed to Enhance Program Confidence;
- Erosion of Statutory Program Authority;
- Implementation of Cooperative Agreements given Central Nonprofit Agencies (CNA) Growth;
- Lack of Adequate Resources Impacts Program Effectiveness;
- Establishing an Enterprise-wide Risk Management Framework; and
- Enhancement of Program Compliance.

The topics discussed in the report encompass multiple challenge areas and attest to the complex nature of the AbilityOne Program. In this report, we introduce an emerging challenge with organizational governance and are placing it on a watch list as a potential, reportable challenge for the Commission. The allocation of roles, authorities, and responsibilities among the Commission Senior Staff creates challenges in achieving positive business outcomes such as the ability to implement timely policies and initiatives, effectively execute changes in the programs, and support program growth.

This report is based on OIG and U.S. Government Accountability Office (GAO) audits and reviews, as well as our knowledge of the AbilityOne programs and operations. OIG met with the Commission leadership to gain their perspective on the challenge areas and considered the accomplishments the Commission reported as of September 30, 2019. OIG also received input on the challenges to the program from Congress, CNAs, and NPAs.

As previously reported, the Council of Inspectors General on Integrity and Efficiency (CIGIE) consolidated the challenges encountered by agencies across government in 2017, reported by their respective federal IGs. The AbilityOne OIG work was among the few referenced from the 61 OIG reports that CIGIE considered. The CIGIE report afforded the Commission positive exposure on its resource challenges for the administration of the complex AbilityOne Program.

Background

Enacted in 1938, the Wagner-O'Day Act established the Committee on Purchases of Blind-Made Products to provide employment opportunities for the blind. Legislation sponsored by Senator Jacob K. Javits was signed in 1971, amending and expanding the Wagner-O'Day Act to include persons with other severe disabilities. The Act, as amended, became known as the Javits-Wagner-O'Day (JWOD) Act (41 U.S.C. §§8501-8506), and the program's name became the JWOD Program. The 1971 amendments also established the federal agency as the Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) to reflect the expanded capabilities of the JWOD Program. In 2006, the Committee changed the program's name from the JWOD Program to the AbilityOne Program. The Committee is now known as the U.S. AbilityOne Commission (Commission).

By statute, the Commission is composed of fifteen Presidential appointees: eleven members representing federal agencies and four members serving as private citizens from the blind and disabled community, bringing their expertise in the field of employment of people who are blind or have significant disabilities. In the composition of the Commission's fifteen Presidential appointees, currently there are nine vacancies: seven federal agencies and two private citizens. This amounts to more than half of the Commission membership being vacant (9 out of 15).

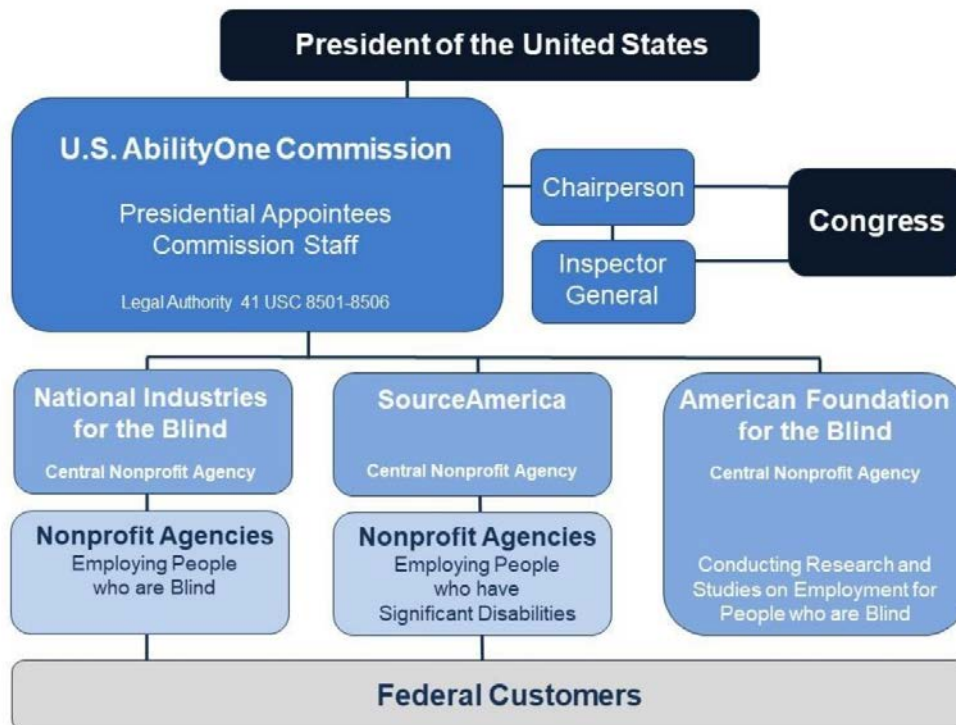
The Commission has about 32 full-time employees for the administration of the AbilityOne Program. The Program is a source of employment for approximately 45,000 people who are blind or have significant disabilities through contracts across all fifty states and U.S. territories by more than 500 nonprofit agencies (NPAs) with federal agencies. The Commission administers contracts for more than \$3.6 billion in products and services to the federal government annually through the AbilityOne Program.

The Commission designates CNAs to facilitate the employment by NPAs of people who are blind or have significant disabilities. The Commission currently administers the AbilityOne Program with the assistance of two CNAs,¹ the National Industries for the Blind (NIB) (established in 1928) and SourceAmerica (established in 1974). On July 26, 2018, the Commission designated the American Foundation for the Blind (AFB) as a third CNA with an initial phase of research and studies. Each CNA has its own Cooperative Agreement with the Commission, and that Agreement helps govern the relationship and performance of each CNA. AFB is not fully operating as a CNA as it doesn't have any NPAs. Also, as a consequence of AFB not having any NPAs and AbilityOne Program contracts, AFB doesn't collect any program fee.

The Commission is ultimately responsible for the administration of the \$3.6 billion worth of contracts between the NPAs and the federal government. Stakeholders expect greater program integrity, efficiency, accountability, and transparency across its operations. The OIG will continue to report on management progress and to highlight the benefits of an open and transparent culture, ultimately leading to a more resilient AbilityOne Program.

¹ 41 CFR Chapter 51-3.

Figure 1:
AbilityOne Program Organization



Management Challenge 1: Higher Level of Transparency Needed to Enhance Program Confidence

Why This Is a Challenge

The stakeholders and program participants are extremely interested in the Commission activities including effective communication by the Commission on program operations. The AbilityOne Program is challenged with improving transparency.² Congress has made repeated observations regarding challenges in transparency, especially in a program that employs over 45,000 blind and severely disabled workers. Congress has consistently commented on the expectations of a high level of practices by the Commission with communicating effectively to the interested public. During the amendments of the Wagner-O’Day Act in 1971, Congress stated: *The Committee’s procedures have not necessarily complied with due process of law, such as adequate notice, presentation of views prior to adding to or removing commodities at a fair market price from the*

² GAO-13-457, “Employing People with Blindness or Severe Disabilities: Enhanced Oversight of the AbilityOne Program Needed,” (May 2013). See also “Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity” 2018 First Annual Report to Congress (898 Panel Report (2018)).

*Schedule of Blind-Made Products. As a result, actions of the Committee in carrying out its role under the Wagner-O'Day Act have been subject to question and review in a court decision.*³ Greater level of communication by the Agency staff would enhance operations in administering the program and result in increased program confidence. Several factors point to the benefits of improving transparency in the program.

The GAO report published in May 2013 identified the need to enhance program oversight and transparency as a challenge for the Commission.⁴ On the same issue, in 2019, despite being included in the Chairman's Mark,⁵ a provision increasing contracting goals and setting the stage for expanded Program growth was abandoned at the NDAA Conference. The reason discussed by lawmakers for not increasing the contracting goal provision was: "...both the [AbilityOne] Inspector General and the [DoD] Panel are generating findings and recommendations for needed reforms and expect the AbilityOne Commission to take appropriate steps in the future to increase transparency and effectiveness of the program."⁶

Commission Membership

The Commission's statutorily mandated broad composition of membership provides a benefit for participating Agencies and the Commission's operations by maximizing representation across the federal government. By statute, four members of the Commission come specifically from the blind and disabled community, as private citizens.⁷ The varying expertise and backgrounds of the talented members is key to the success of the AbilityOne Program.

By statute, nine members come from representative government agencies. In May 2019, Mr. Stuart Hazlett, Deputy Assistant Secretary of the Army, was sworn in as a member of the Commission from the Department of the Army. To the credit of the Commission, the Chairperson through correspondence made requests to federal agencies with a vacant presidentially appointed position encouraging attention to filling the vacancies. The Chairperson requested that the heads of such federal agencies coordinate with the Commission to begin the nomination process.

As mentioned above, in the composition of the Commission's fifteen Presidential appointees, currently there are nine vacancies: seven federal agencies and two private citizens. This amounts to more than half of the Commission membership being vacant (9 out of 15). Low membership level means diminished representation by government agencies, and it decreases program outreach and opportunities for greater communication across the government program.

Commission Meetings

The Commission's public meetings are regularly held four times a year.⁸ The holding of public meetings at each of the CNA's Annual Conference has positively impacted transparency and

³ U.S. Congress, House of Representatives, Government Operations Committee, *Amendments to the Wagner-O'Day Act: Report (To accompany H.R. 8011)*, 92nd Cong., 1st Sess., 1971, H.R. Rep. 92-228, 1082.

⁴ [GAO-13-457, "Employing People with Blindness or Severe Disabilities: Enhanced Oversight of the AbilityOne Program Needed," \(May 2013\).](#)

⁵ [FY 2019 NDAA Chairman's Mark.](#)

⁶ [FY 2019 NDAA House Conference Report 115-874 at 920.](#)

⁷ [41 U.S.C. §8502\(b\)\(2\)-\(5\).](#)

⁸ [2019 Commission Public Meetings.](#)

maximized access and consumption of information. However, Commission meetings, enhanced by advance subcommittee work, with larger and more robust agendas that have open discussions, would work better to inform stakeholders. Over the past year, the Executive Director's reporting in public meetings had little or no written content or written reference materials. We have been informed by stakeholders that agendas and materials are not consistently provided by the Commission.

Revitalizing the Commission-held subcommittee system would increase open member dialogue and solutions. Subcommittees could meet more often and establish or encourage liaisons from each of the CNAs to provide input. Additionally, the subcommittees should have a role in completing initiatives. A better organized library of public meetings with a collection of content material would increase communication and provide access to relevant and reliable information related to AbilityOne Program events.

The Commission aggravates the perception of opacity with two practices: the frequent use of executive sessions (non-public sessions) and the execution of nondisclosure agreements (NDAs) with Commission members and third-parties. Both practices are permissible and needed in many instances. However, they limit transparency and encourage participants and other stakeholders to infer that Commission actions are not meant to be well understood. Encouraging the dynamics of information flow would benefit information exchange, with the Commission acting as a leader in communication practices and not viewed as controlling or restricting it. For instance most recently, the House Report points to questions raised by Congress about language in the Cooperative Agreements between the Commission and the CNAs requiring the CNAs to notify in advance and report to the Commission any meetings with key stakeholders, including with Congressional members and staff.⁹

[Progress In Addressing The Challenge](#)

In 2015, the Commission published a series of pricing policies ranging from market research, development and recommendation, submission and negotiation of Fair Market Prices (FMP) for products on the AbilityOne Program Procurement List (PL).¹⁰ The Cooperative Agreements, as required by the Consolidated Appropriations Act of 2016, measure CNA operations.¹¹ This is a step in the right direction. The step should also, though, include a description of the Commission's review procedures of pricing packages so that CNAs and NPAs can prepare the pricing packages accordingly.

The Cooperative Agreement between the Commission and AFB, signed in July 2018, is supposed to provide an enhanced CNA model focusing on increasing job placement and career-advancement opportunities in knowledge-based positions. AFB has no NPAs and no AbilityOne contracts. At this time, the work of AFB, the third Commission-designated CNA, consists of research and studies. Upon completion of 12 to 15 months, not to exceed 18 months, the Commission plans to conduct a review of AFB's Phase I.

⁹ [House Report 116 -62 at 223.](#)

¹⁰ [AbilityOne Program Procurement List Pricing Policy \(51.600 series\)](#)

¹¹ [Public Law 114-113.](#)

In December 2018, the renewal of the Cooperative Agreements with NIB and SourceAmerica was intended to be a step taken by the Commission to strengthen oversight and evaluate performance.¹²

In the 2017 NDAA, Congress created a panel- the Department of Defense and AbilityOne Contracting, Oversight, Accountability, and Integrity¹³ (hereinafter, the “898 Panel”). The mandate of the 898 Panel includes making recommendations to Congress regarding the JWOD Act and improving the AbilityOne Program.

The 898 Panel is responsible for recommendations in seven areas of Congressional interest. The Panel’s first report to Congress was issued in July 2018 and identified 41 recommendations in several focus areas: resources, program oversight, contract goal, definitions, training, and technology. The Commission leadership has increased its outreach through program visits, meeting with DoD customers, and designing a communication initiative for the 898 Panel recommendations for the CNAs and the NPAs. This includes town halls and webcasts hosted or sponsored by the Commission, and commitment and collaboration of the Panel members and subcommittees to engage CNAs’ perspective and inputs to improve the AbilityOne Program.

What Needs To Be Done

The Commission is facing challenges with improving the transparency in the administration of the AbilityOne Program. Commissions and Boards typically benefit from publishing quality information and program-wide communication tailored to the business of the Agency. Increased use of appropriate methods of communication such as social media outreach and reporting on metrics and compliance data could provide useful communication on project status and needs, updates of activities, and performance planning. The Commission takes advantage of this and publishes an annual regulatory agenda. Agencies are increasingly using electronic filing and document dissemination systems to manage deadlines and actions. The Commission has two excellent, dedicated communications staff that support the strategic communication of the Agency. However, these staff have a large portfolio and are responsible with assisting with the delivery of information for an enormous program with limited resources.

Further NPA outreach and increased use of notice of proposed rulemaking by the Commission would increase transparency by soliciting public and open dialogue, and informing interested stakeholders of completed, as well as impending, actions.

Management Challenge 2: Erosion of Statutory Program Authority

Why This Is a Challenge

The challenge of program erosion is at a pivotal stage. During the last two reports, we presented the concept of erosion of statutory program authority as a challenge to ensure this excellent program has the resources and support it needs to grow and increase employment of

¹² See [NIB Cooperative Agreement](#); See also [SourceAmerica Cooperative Agreement](#).

¹³ Pub. L. 114-328, FY 2017 National Defense Authorization Act.

blind and severely disabled workers. The legal framework for the AbilityOne Program was created in 1938 and amended in 1971 and, since then, has not had a reauthorization or modernization. Since the last intervention, in 1971, Congress has enacted, and agencies have implemented, multiple acquisition reform laws designed to modernize the way government agencies buy goods and services. Several new laws passed ensure our Nation's disabled veterans have expanded opportunities in federal government acquisitions; however, these laws are in conflict with the statutory authority of the AbilityOne Program.

Congress passed the Veterans Entrepreneurship and Small Business Development Act in 1999, the Veterans Benefits Act (VBA) in 2003, and in 2006 it approved the Veterans Benefits, Health Care, and Information Technology Act which removed important language from the VBA of 2003. Each of these laws established procedures related to service-disabled veteran business procurement goals and requirements, but the VBA of 2006 created problems with JWOD supremacy. As applied to the Department of Veterans Affairs (VA), the VBA of 2006 challenges the Program by antagonizing what Congress contemplated for JWOD Act jurisdiction. Executive Order 13360 increased federal contracting and subcontracting opportunities for service-disabled veteran businesses to the detriment of AbilityOne Program participants.

The creation of multiple initiatives that are in competition with each other makes it difficult for contracting officers to navigate compliance. Recent court challenges further demonstrate the confusion as to how AbilityOne Program rules should be interpreted and implemented.

PDS Consultants – the “Rule of Two” analysis

In *Kingdomware Technologies, Inc. v. United States*, 136 S.Ct. 1969 (2016), the Supreme Court held that VA contracting officers are required to give veteran-owned small businesses (VOSBs) procurement priority when there is a “reasonable expectation” that two or more VOSBs will bid on the contract “at a fair and reasonable price that offers best value to the United States” (Veterans Benefits Act of 2006, 38 U.S.C. § 8127(d)). This is known as the “Rule of Two” analysis. The Court also held that this analysis was required regardless of whether the VA had already met its annual minimum VOSB contracting goals.¹⁴

PDS Consultants, Inc. alleged in the Court of Federal Claims that the VA improperly implemented the VBA of 2006¹⁵ mandate when it revised its contracting rules in an attempt to comply with the Supreme Court ruling in *Kingdomware* while remaining compliant with the JWOD Act.¹⁶

In *PDS*, the VA awarded a contract to a qualified NPA provider on the AbilityOne Procurement List without first employing the VBA's “Rule of Two” analysis. The VA did so because it believed that *Kingdomware* could be distinguished as applying only to competitive contracts and that JWOD procurements were non-competitive. The VA further believed that the mandatory nature of the VBA's “Rule of Two” applied only to new contracts and that here it was merely renewing a contract that existed prior to the VA's 2010 implementation of the VBA of 2006. The Court of Federal Claims disagreed with the VA, holding that the VA must conduct a “Rule

¹⁴ *Kingdomware Technologies, Inc. v. United States*, 136 S.Ct. 1969 (2016).

¹⁵ 38 U.S.C. §§ 8127, 8128.

¹⁶ *PDS Consultants, Inc. v. United States*, Case No. 16-1603C, (Fed. Cl. 2017).

of Two” analysis for all new procurement contracts before treating the AbilityOne Procurement List as a mandatory source pursuant to the JWOD Act. The Court of Federal Claims also held that because the VBA of 2006 applied only to the VA’s procurements, the VBA was a more specific statute than the JWOD Act’s broad application government-wide, and thus the VBA would take precedence, regardless of the existence of a prior contract with a Procurement List contractor.

On September 1, 2017, the Court of Federal Claims stayed its decision in *PDS* pending appeal to the United States Court of Appeals for the Federal Circuit in order to resolve the issue of whether the court properly interpreted the interplay between the VBA and JWOD Act. Oral arguments took place on September 4, 2018 and a final order was issued on October 17, 2018.

The United States Court of Appeals for the Federal Circuit affirmed the lower court’s decision in favor of PDS.¹⁷ The court held that *Kingdomware* “requires the [VA] to apply the Rule of Two to all contracting determinations.”¹⁸ To hold this way essentially requires that the VA compete all contracts where “the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by veterans will submit offers and that the award can be made at a fair and reasonable price that offers best value to the United States” before a mandatory source determination is made (by checking whether an item is on the AbilityOne Procurement List).¹⁹

To reconcile the competing provisions, the court relied on the “basic tenant of statutory construction . . . that a specific statute takes precedence over a more general one” and “when two statutes conflict, the later-enacted statute controls.”²⁰ The court held that “while the JWOD applies to all agencies of the federal government, the VBA applies only to VA procurements and only when the Rule of Two is satisfied.”²¹ Additionally, the court explained that “we assume that Congress was aware that it wrote an exception into the agency-wide Veterans Benefits Act in 2003 [expressly retaining JWOD’s primacy over the VBA] when it left that very same exception out of the VBA only three years later.”²²

This decision in favor of PDS Consultants, Inc. would have a negative impact on the AbilityOne Program and Federal Acquisition Regulation Part 8 Mandatory procurement sources as applied to the VA. On September 9, 2019, a petition for a *writ of certiorari* was filed before the U.S. Supreme Court and the respondent’s response is due on December 9th, 2019. The United States as the respondent represents the VA but the JWOD Act interpretation is also of interest to the Commission. The issue presented to the Court is whether Congress intended 38 U.S.C. § 8127(d) competitive-bidding preference for providers owned and controlled by veterans to be superior to the mandatory requirements of JWOD that dictate that agencies must acquire goods and services using the AbilityOne Procurement List.

¹⁷ *PDS Consultants., Inc. v. United States*, Court of Appeals for the Federal Circuit (decided Oct. 18, 2018).

¹⁸ *Id.* (citing *Kingdomware*, 136 S. Ct. at 1976).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

Randolph-Sheppard Act

The Randolph-Sheppard Act (RSA) was passed in 1936 and amended in 1954 and 1974.²³ Its implementation has been in conflict with the JWOD Act since the latter's 1938 inception. "The RSA was enacted to provide blind persons with remunerative employment, enlarge their economic opportunities, and encourage their self-support through the operation of vending facilities in federal buildings. The U.S. Department of Education prescribes regulations, as set forth in 34 CFR, Part 395, implementing the *Act* as amended (See 41 CFR 101-20.2)."²⁴ Under the Randolph Sheppard Vending Facility Program, "state licensing agencies recruit, train, license, and place individuals who are blind as operators of vending facilities located on federal and other properties. The RSA authorizes a blind individual licensed by the state to conduct specified activities in vending facilities through permits or contracts."²⁵ However, recent progress has been made by RSA participants and supporters to implement the respective mandates as Congress intended.

In 2006, Congress sought to dispel the confusion and conflict between the JWOD and RSA Acts via the 2006 National Defense Authorization Act. Congress required the agencies administering both the JWOD Act and the RSA, (the Commission and the Department of Education, respectively), as well as the Department of Defense (DoD) to issue a joint statement clarifying "the application of those Acts to both operation and management of all or any part of a military mess hall, military troop dining facility, or any similar dining facility."²⁶

The Commission, the Department of Education, and the DoD complied with this Congressional directive. The three agencies developed a task force comprised of representatives from each agency that "met weekly and engaged in almost daily discussions by electronic mail and telephone to develop a joint statement of policy pursuant to Section 848 [of the 2006 NDAA]."²⁷ The three agencies also "solicited public comments through a notice in the Federal Register, and approximately 240 comments were received."²⁸

The agencies memorialized their agreement as to the policy that should govern application of the JWOD Act and RSA to military dining facilities in a joint report to Congress dated August 29, 2006 (the "Joint Policy Statement"). According to the Joint Policy Statement, "contracts will be competed under the RSA when the [Department of Defense] solicits a contractor to exercise management responsibility and day-to-day decision-making for the overall functioning of a military dining facility," i.e., operation of the military dining facility.²⁹ However, "In all other cases, the contracts will be set aside for JWOD performance . . . Dining Facility Attendant Services (DFA) . . . when the [Department of Defense] needs dining support services (e.g., food preparation services, food serving, ordering and inventory of food, meal planning, cashiers, mess

²³ 20 U.S.C. § 107 et. seq.

²⁴ [Randolph Sheppard Vending Facility Program](#).

²⁵ *Id.*

²⁶ NDAA of 2006, Pub. L. No. 109-163, § 848(b), 119 Stat. 3136, 3395 (2006).

²⁷ Joint Report to Congress, Section 848 of the National Defense Authorization Act for Fiscal Year 2006: Application of the Javits-Wagner-O'Day Act and the Randolph-Sheppard Act to the Operation and Management of Military Dining Facilities (Aug. 29, 2006) ("Joint Policy Statement") at 3.

²⁸ *Id.*; see also [Statement of Policy and Report Relating to Contracting with Employers of Persons with Disabilities, 71 Fed. Reg. 5819 \(Feb. 3, 2006\) \(requesting public comments\)](#).

²⁹ Joint Policy Statement at 4, Full Food Services (FFS).

attendant, or other services that support operation of a dining facility) . . .”³⁰ Relevantly, mess attendant services are also known as dining facility attendant services.³¹

After two years³² of lost AbilityOne Program jobs, the Unified Agenda³³ published on June 11, 2018, includes an entry by DoD regarding this proposed rule. The DoD entry states that the “DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) . . . to implement the Joint Report and Policy Statement (Joint Policy Statement) issued by DoD, the Department of Education, and the CFP pursuant to section 848 of the NDAA for FY 2006. Pursuant to the Joint Policy Statement, the RSA applies to contracts for the operation of a military dining facility, also known as full food services, while the Commission statute applies to contracts and subcontracts for dining support services (including mess attendant services).”

E-Commerce

Government-wide use of procurement through E-Commerce portals is both an opportunity and a challenge to the AbilityOne Program. The FY 2018 NDAA was signed by the President on December 12, 2017, and included Section 846, “Procurement Through Commercial E-Commerce Portals.”³⁴ Section 846 directed the General Services Administration (GSA), in partnership with the Office of Management and Budget (OMB), to “...establish a program to procure commercial products through commercial E-Commerce portals for the purposes of enhancing competition, expediting procurements, enabling market research, and ensuring reasonable pricing of commercial products.”

The U.S. AbilityOne Commission announced the end of the pilot program between the Commission and Amazon at the end of the fiscal year. While the Commission was able to gain insight into E-commerce platforms, the pilot did not lead to an increase in AbilityOne sales. Amazon did not block ETS offerings on its platform and substitute those products with AbilityOne products, which is a feature that the Commission requires of its authorized distributors. This required feature is accomplished when the E-Commerce purchases comply with the JWOD Act, which requires that government agencies buy from the AbilityOne Program.

On April 2019, the U.S. General Services Administration (GSA) and OMB issued the phase 2 joint implementation plan, which focuses on market research. Phase 3 of the plan will focus on implementation guidance, informed by an initial proof of concept and continued stakeholder engagement.³⁵ The OIG views the innovations of E-Commerce as the future of an evolving marketplace. There is, however, risk for significant program erosion despite shared success of the E-Commerce platform. It is paramount that the buyers of products and services, i.e. the government agencies and their purchase officers, understand that the customer that the E-Commerce platform seeks to serve is the AbilityOne Program itself.

³⁰ *Id.* (emphasis added).

³¹ See Food Services for Dining Facilities on Military Installations, 81 Fed. Reg. 36,506, 36,508 (June 7, 2016) (“Mess attendant services’ (also known as ‘dining facility attendant services’) are a subset of ‘dining support services.’”).

³² See FY 2015 NDAA Joint Explanatory Statement (prompting the DFARS rule). P.L. 113-291 (December 2014).

³³ The Unified Agenda is a semi-annual report on the actions that agencies plan to issue in the near and long term.

³⁴ Pub. L. 115-91.

³⁵ [Procurement Through Commercial E-Commerce Portals, Phase II Report: Market Research & Consultation](#)

Additional Examples of Erosion of Statutory Program Authority

The following illustrates additional examples of AbilityOne Program erosion:

- a. Recommendations for changes to the AbilityOne Program and the definition of “competitive integrated employment” resulting from the report of the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities established under Section 609 of the Rehabilitation Act of 1973, as amended by Section 461 of the Workforce Innovation and Opportunity Act. The 898 Panel report identified definitions that should be amended to bring JWOD into compliance with the Workforce Innovation and Opportunity Act³⁶;
- b. Efforts by the Small Business Administration to assert its preference programs over the mandated priority of the JWOD Act;
- c. Lack of enforcement capabilities for the AbilityOne Program to assert its mandated source-priority when federal agencies fail to purchase AbilityOne products and services;
- d. Increased legal challenges from qualified NPAs questioning the Commission’s ability to administer the AbilityOne Program;
- e. As discussed in more detail in the transparency challenge, despite being included in the Chairman’s Mark,³⁷ a provision increasing contracting goals, and thus AbilityOne Program size, was not passed. The reason discussed by lawmakers was: “...both the [AbilityOne] Inspector General and the [DoD] Panel are generating findings and recommendations for needed reforms and expect the AbilityOne Commission to take appropriate steps in the future to increase transparency and effectiveness of the program.”³⁸

Progress In Addressing The Challenge

As mandated by Congress, the Commission is a member of the 898 Panel. The mandate of the 898 Panel includes making recommendations to Congress regarding the JWOD Act and improving the AbilityOne Program.

The 898 Panel released its first annual report to Congress on July 18, 2018.³⁹ Issuing 41 recommendations, the 898 Panel concluded that the overall lack of funding committed to the Commission was the AbilityOne Program’s largest challenge.⁴⁰ The 41 recommendations were grouped into six areas, and the 898 Panel reports that it intends to refine the specific recommendations by priority level and to implement them accordingly. The second report to Congress is scheduled to be issued at the end of December 2019.

The recommendations identified in DoDIG-2016-097, and tracked by the 898 Panel, are on the path for successful implementation.⁴¹ The Commission will continue to work with Congress to update legislation improving the AbilityOne Program’s statutory authority per the 898 Panel’s

³⁶ [“Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity” 2018 First Annual Report to Congress \(898 Panel Report \(2018\)\) at 19.](#)

³⁷ [FY 2019 NDAA Chairman's Mark.](#)

³⁸ [FY 2019 NDAA House Conference Report 115-874 at 920.](#)

³⁹ [898 Panel 2018 Annual Report to Congress.](#)

⁴⁰ *Id.* at 2.

⁴¹ See [Contracting with the AbilityOne Program](#); see also [Required AbilityOne Program Training](#).

recommendations. The Commission continues to seek increased cooperation from AbilityOne Program CNAs and NPAs participants to improve processes and controls, and to recognize the market evolution where NPAs increasingly contribute their own ideas for inclusion of items to the Procurement List.

What Needs To Be Done

While the Commission continues its work with the 898 Panel (which has a three-year mandate ending in 2021) and agency partners, it is vital that contracting officials have a thorough understanding of the AbilityOne Program requirements. The implementation of the requirements will ensure Program growth.

In an effort to improve awareness about the AbilityOne Program, the Commission's initiative of issuing educational materials and providing presentations to agencies, so government entities understand how the AbilityOne Program works, helps meet critical agency needs and should continue.

The lack of Commissioners currently appointed, due to corresponding vacancies from federal government agencies,⁴² deprives the agencies of a senior government official with AbilityOne Commission-specific expertise, and deprives the Commission of a representative voice in those federal agencies. As a result, these unrepresented departments or agencies⁴³ may be disadvantaged, and so is the Commission.

Management Challenge 3: Implementation of Cooperative Agreements with CNAs

Why This Is a Challenge

The Commission designates CNAs to facilitate the employment and training opportunities of people who are blind or have significant disabilities. The dynamics of the CNAs in the program are changing and growing. The Commission administers the AbilityOne Program with the assistance of two CNAs – NIB and SourceAmerica. The Commission designated AFB as a third CNA on July 26, 2018. This third CNA, AFB, is conducting research and studies, and has no NPAs or AbilityOne contracts.

The Commission is responsible for overseeing the implementation of the Cooperative Agreements with the CNAs to ensure performance.⁴⁴ The Commission established a Program Management Office (PMO) with two professional staff to administer the implementation of the Cooperative Agreements. The new Director that has been onboard since last year and has

⁴² [41 U.S.C. §8502\(b\)\(1\)\(A\)-\(K\) \(listing the 11 Agencies that AbilityOne Commissioners must come from as the Department of Agriculture, Department of Defense, Department of the Army, Department of the Navy, Department of the Air Force, Department of Education, Department of Commerce, Department of Veterans Affairs, Department of Justice, Department of Labor, and General Services Administration\).](#)

⁴³ *Id.* at (b)(1) (stating that Commissioners are Presidential Appointees that must be nominated by the head of the department or agency). There are no confirmed Commissioners from the Departments of Agriculture, Defense, Army, Navy, Education, Veterans Affairs, Justice, and GSA.

⁴⁴ [U.S. AbilityOne Commission Fiscal Year 2020 Budget Justification.](#)

improved significantly the performance of the PMO during her tenure with improved communication, effective management of timelines and deliverables and developing positive workflow with the stakeholders. The Director and Deputy Director of the PMO are however understaffed to efficiently analyze and manage large volumes of deliverables received and reviewed annually in the administration for the three CNA Cooperative Agreements. According to the Commission's FY 2020 Congressional Budget Justification, the Commission hired a data analyst who is shared by the PMO and Chief of Staff. However, the PMO has been challenged in performing data analytics of CNAs reporting requirements and submissions to uncover actionable insights, and then recommend business operations that can improve overall program performance. When ensuring quality performance for their respective Cooperative Agreements, the Commission's PMO size stands in stark contrast to the size of the corresponding CNAs' offices.

[Progress In Addressing The Challenge](#)

In December 2018, the renewal of the Cooperative Agreements with NIB and SourceAmerica was intended to be a step taken by the Commission to strengthen oversight and evaluate performance. In September 2019, the OIG announced the audit of the implementation on Cooperative Agreements between the Commission and NIB and SourceAmerica. The audit objective is to determine if the Cooperative Agreements are adequately designed and operating effectively to improve performance and transparency in the AbilityOne Program.

The Commission continues to pursue budget increases for Agency operations and resources to perform greater program oversight. The increasingly complex responsibilities combined with the need to manage and monitor the Cooperative Agreements, implement the 898 Panel's recommendations, are outlined in the Commission's budget justifications to Congress.

The Cooperative Agreements include the Commission's requirements for timeliness and accuracy in the CNAs' reporting submissions, requests for Procurement List or pricing transactions. The Cooperative Agreements have Quality Assurance Surveillance Plans that measure the timeliness and accuracy in accordance with specified standards. Additionally, the Cooperative Agreements address the AbilityOne Program fee ceiling determination and implementation. In accordance with the Consolidated Appropriations Act of 2016, the Cooperative Agreements require program fees and expenditures to be disclosed to Congress on a quarterly basis.

[What Needs To Be Done](#)

The Commission PMO's is performing well and building the infrastructure needed to strengthen its oversight through Cooperative Agreements with designated CNAs. The positive results flow from stronger leadership in the PMO organization under the new Director. Increased resources are needed for the PMO. The Cooperative Agreements emphasize employment growth, program integrity, support for nonprofit agency employers participating in the AbilityOne Program, as well as enhanced training and communications. A strong focus on increasing resource allocation to the PMO office needs to be addressed by the Commission.

The Commission PMO's continuous evaluation and improvement process will ensure greater success, including deeper involvement with the 898 Panel. The 898 Panel's duties will continue

through at least FY 2021, and the Commission is required to annually implement the Panel's recommendations in support of the AbilityOne Program.

Management Challenge 4: Lack of Adequate Resources Impacts Program Effectiveness

Why This Is a Challenge

The Commission does not have adequate staffing and resources to effectively execute its responsibilities and sustain the mission to provide employment opportunities in the manufacture and delivery of products and services to the federal government for people who are blind or have significant disabilities. The Commission, with 32 full-time employees, is responsible for the administration of the AbilityOne Program that is a source of employment, by more than 550 NPAs, for approximately 45,000 people who are blind or have significant disabilities. The Commission administers contracts for more than \$3.6 billion in products and services to the federal government annually through the AbilityOne Program.

As noted in the 2018 CIGIE Top Management and Performance Challenges Facing Multiple Federal Agencies (TMPC) report, lack of resources is a significant challenge that can negatively affect an agency's ability to meet its mission. Consistently with the CIGIE TMPC reporting, funding and staffing are a challenge for the Commission to effectively execute its responsibilities and sustain its mission.⁴⁵ If adequate funding is not provided, pressure on the Commission's capacity to ensure program accountability and operational efficiency will hit a critical state.

The Commission's FY 2020 budget justification recognized the imbalance between its resources and a historic increase in mission requirements.⁴⁶ Currently, the Commission operates with a staff of 32 people (Figures 2 and 3) responsible for establishing the rules, regulations, and policy to ensure effective implementation of the JWOD Act. The FY 2020 budget justification demonstrates the need for funding of seven new FTEs for the Commission, from a Chief Financial Officer, Cybersecurity official, Compliance Inspectors, Vocational Rehabilitation Specialists, Business Operations staff, to a staff member for the Directorate of Veterans Employment and Initiatives.

Another impact on resources results from supporting the 898 Panel. The 898 Panel is required to report to Congress annually on its activities, findings and recommendations. The Commission has the added responsibility of implementing certain Panel recommendations addressing diverse issues ranging from waste, fraud, and abuse to business practices and veteran's employment.⁴⁷

The resource levels of the Commission are not adequate for the geographical size and complexity of the program it manages. The Commission needs adequate resources to meet mission-critical requirements, and to maintain and accelerate the momentum toward strengthening oversight of

⁴⁵ CIGIE, *Top Management and Performance Challenges Facing Multiple Federal Agencies* (TMPC). April 2018, pg. 8.

⁴⁶ [U.S. AbilityOne Commission Fiscal Year 2020 Budget Justification](#).

⁴⁷ First Panel Annual Report to Congress, *Under Secretary of Defense for Acquisition and Sustainment*, July 18, 2018.

the AbilityOne Program that it manages. Increased resources are essential for the Commission to successfully respond to the rapidly growing demands resulting from Congressional requirements for the Commission to exercise stronger management of the AbilityOne Program.

Figure 2:

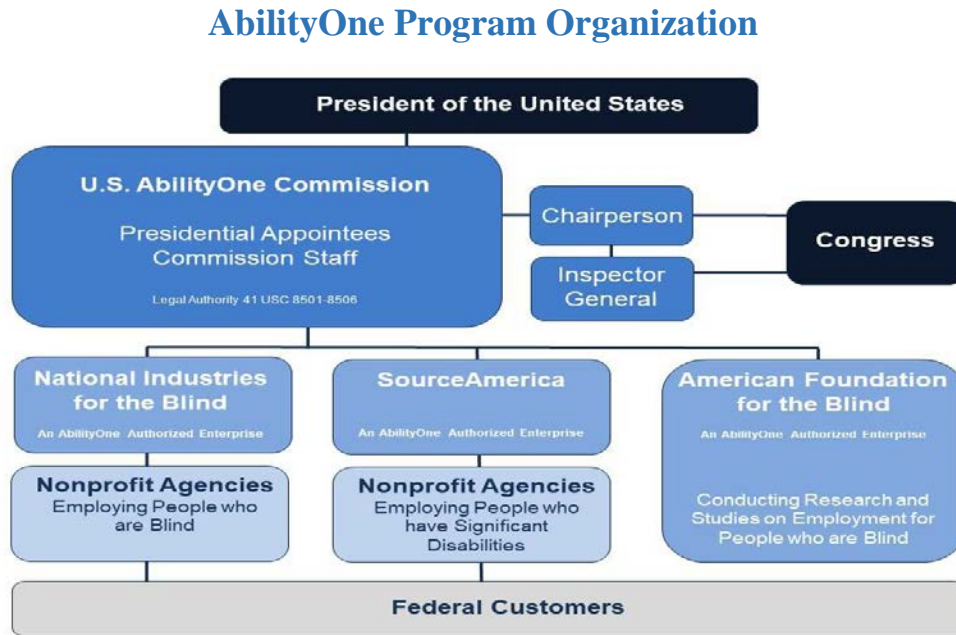
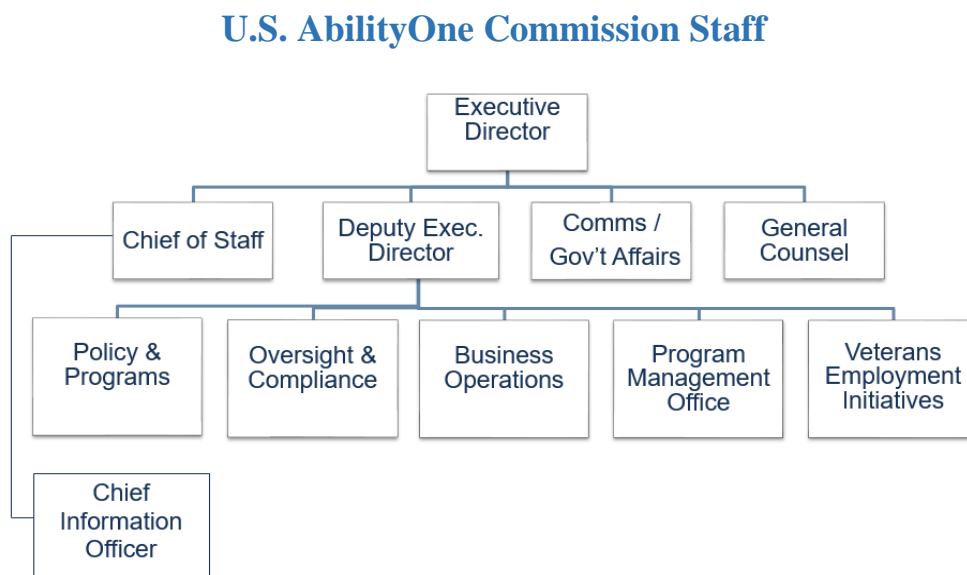


Figure 3:



Progress In Addressing The Challenge and What Needs To Be Done

The Commission has strengthened its oversight of the Program through changes in response to the Consolidated Appropriations Act 2016. The implementation of Cooperative Agreements with NIB and SourceAmerica link employment growth and other key performance indicators to the fees collected by the CNAs for their assistance in administering the AbilityOne Program. The Cooperative Agreement with AFB is supposed to provide opportunities for a new CNA model on increasing job placement and career advancement opportunities in knowledge-based positions.

The Commission also needs additional resources to advance the progress that started with the enhancement of the PMO and Compliance Office. Resources are needed to conduct on-site compliance inspections designed to ensure adherence with statutory, regulatory, and other requirements by NPAs participating in the AbilityOne Program.⁴⁸

The Commission should continue to assess the level of resources needed to fully achieve and implement its strategic objectives and manage limited resources through a risk based model and enhanced planning.

Management Challenge 5: Establishing an Enterprise-wide Risk Management Framework

Why This Is a Challenge

The Commission does not have a formal enterprise-wide program for organizational risk and, as a result, is unable to effectively prioritize and manage risks. Since two years ago the OIG identified lack of risk management as a serious management challenge, the Agency has made virtually no progress in addressing the challenge.

In July 2016, OMB issued an update to Circular A-123 requiring federal agencies to implement Enterprise Risk Management (ERM) procedures so executives can ensure the achievement of the agency's strategic objectives (Figure 4). OMB Circular A-123 provides guidance to Federal Managers on improving accountability and effectiveness of Federal programs and operations by identifying and managing risks, establishing requirements to assess, correct, and report on the effectiveness of internal controls.

The Commission has failed to prepare a risk profile document as required by OMB guidance, or make progress toward achieving this goal. This has limited the Commission's ability to identify challenges early, bring them to the attention of Commission leadership, and to develop the needed solutions.

To aggravate the risk, the Commission does not currently have a Chief Financial Officer. Like other agencies, the Commission is required to align ERM processes with its goals and objectives, and to report on each of the identified risk areas. The Commission has acknowledged the need of establishing a risk profile. The primary purpose of a risk profile is to provide an analysis of the risks an Agency faces toward achieving its strategic objectives arising from its activities and

⁴⁸ [U.S. AbilityOne Commission FY 2018 Performance and Accountability Report](#)

operations, and to identify appropriate options for addressing significant risks.⁴⁹ To this date, the Commission has not been able to use available staff or resources to accomplish the Enterprise-wide Risk Management Framework.

Figure 4:

OMB Circular A-123 Seven Continuous Risk Identification and Assessment

Establish the Context	Understanding and articulating the internal and external environments of the organization.
Initial Risk Identification	Using a structured and systematic approach to recognizing where the potential for undesired outcomes or opportunities can arise.
Analyze and Evaluate Risks	Considering the causes, sources, probability of the risk occurring, the potential positive or negative outcomes, and then prioritizing the results of the analysis.
Develop Alternatives	Systematically identifying and assessing a range of risk response options guided by risk appetite.
Respond to Risks	Making decisions about the best options(s) among a number of alternatives, and then preparing and executing the selected response strategy.
Monitor and Review	Evaluating and monitoring performance to determine whether the implemented risk management options achieved the stated goals and objectives.
Continuous Risk Identification	Must be an iterative process, occurring throughout the year to include surveillance of leading indicators of future risk from internal and external environments.

Progress In Addressing The Challenge

Last year the Commission’s Oversight and Compliance Office initiated a risk-based model to help identify at-risk or high-risk levels of an NPA’s compliance with the AbilityOne Program. The office utilizes an internal control system using quantifiable metrics and the automated documentation system, referred to as Procurement List Information Management System (PLIMS). The risk-based model, when fully implemented, should help integrate risk management and internal control activities into the compliance framework.

What Needs To Be Done

The Commission needs to implement the ERM to effectively respond to both expected and unexpected events. ERM is beneficial because it addresses a fundamental organizational

⁴⁹ [OMB Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Controls, July 15, 2016, Section II.B - Risk Profiles.](#)

principle: the need for information about major risk to flow both vertically (i.e. up and down) and horizontally (i.e. across business functions).

As the Commission continues to explore opportunities to increase resources as addressed in the Agency's Congressional Budget Justification, prioritizing to improve risk planning will better help achieve the intended benefits of the program.

Management Challenge 6: Enhancement of Program Compliance

Why This Is a Challenge

Pursuant to Title 41 CFR 51-4, the Commission's Oversight and Compliance Office assesses the 500 AbilityOne NPAs with their 45,000 employees for compliance with AbilityOne program requirements. Inspections by the office involve the NPA compliance of direct labor hour ratios, eligibility requirements (i.e. NPA-provided documentation regarding the employee's significant disability), and company health and safety standards.

We are impressed with the Acting Director for the Office of Compliance, who since joining the office has made progress in improving the performance of the compliance office and contributes to positive communication with the stakeholders. Notwithstanding the progress, it remains that the Commission's Oversight and Compliance Office does not have sufficient resources to execute its compliance responsibilities, which include implementation of issued policy guidance, conducting routine inspections, providing comprehensive reviews of annual certifications, and training the NPAs participating in the AbilityOne Program. The Office of Compliance is left to operate with a mere number of three employees. Without additional resources, the Commission cannot meet its compliance goals.

The Compliance Office delegates certain governmental compliance duties to the CNAs. Since 2011 the Compliance Office has not performed a compliance visit to NIB-affiliated NPAs. This lack of direct oversight of the 56 NPAs under NIB poses a risk to program-wide compliance. In addition, a higher rate of compliance oversight by the Commission on the CNAs will help identify risks for fraud, as reported on the civil fraud case involving Goodwill Memphis, a SourceAmerica-affiliated NPA.⁵⁰

OIG is impressed with the accomplishments of the Acting Director, who since joining the office has made progress; however, support by senior leadership of the compliance program continues to be ineffective. The Acting Director has been acting in the position for over a year without the support or help of a deputy or increased level of staff.

Essential and basic areas of program integrity remain unfinished. For instance, NPAs have expressed concerns about the absence of a revised and finalized compliance manual containing the procedures and practices to fulfill compliance requirements. The last compliance manual

⁵⁰ <https://www.justice.gov/usao-wdtn/pr/memphis-goodwill-industries-inc-will-pay-150000-united-states-claims-were-violation>

issued by the Commission was over ten years ago. The Commission has removed it from its website years ago and, to date, has not published on the website or made available to the NPAs a revised manual.

Though compliance staff completed a draft revision more than a year ago, Commission's senior staff has failed to implement and publish the needed guidance, and to perform training for the NPAs on it. The website does not currently contain a compliance manual. The critical area of compliance rules and information on metrics is not transparent.

Progress In Addressing The Challenge

The OIG previously reported progress made on this management challenge. The hiring of a new deputy director (Acting Director), the implementation of virtual NPA documentation assessments, and streamlining of the compliance standardization processes all contributed to making progress.

The Commission's Oversight and Compliance Office designed a risk-based model. The risk-based model introduced a process for the identification of NPAs considered either at-risk or at high risk, through the automated documentation system – PLIMS –tracking quantifiable metrics. The risk model was derived from the International Standard for Compliance Management (ISO) 19600: The Development of Global Standard on Compliance Management.

In FY2017, the Commission established a Western field office, located at Joint Base Lewis-McChord, in Washington state. The office is currently staffed with one employee, the field office director. A plan allocates a lead pricing analyst and a compliance inspector position to the office, but the two designed positions are vacant.

What Needs To Be Done

The Commission's Oversight and Compliance Office should continue to integrate risk management capability with program compliance responsibilities. With as many as 500 NPAs in the program, there should be qualitative and quantitative measures to inform and reflect the process of balancing risks and opportunities for reaching and reporting compliance assessment results. The possibility of a direct improvement in the Program compliance area by a field office, or the manner in which the field office is improving the Commission's oversight and compliance duties, should be better communicated. In addition, reporting on site visits completed by HQ office and field office would improve program integrity and serve transparency.

Conclusion

The OIG reports on the most significant management and performance challenges facing the Commission, in accordance with the Reports Consolidation Act of 2000 (P.L. 106-531), for inclusion in the Commission's Performance and Accountability Report for FY 2019.

The challenge areas identified by the OIG are connected to the Commission's mission to provide employment and training opportunities in the manufacture and delivery of products and services to the Federal Government for people who are blind or have significant disabilities.

The OIG identified the top management and performance challenges facing the U.S. AbilityOne Commission as:

- Higher Level of Transparency and Communication Needed to Enhance Program Confidence
- Erosion of Statutory Program Authority
- Implementation of Cooperative Agreements given Central Nonprofit Agencies Growth
- Enhancement of Program Compliance
- Lack of Adequate Resources Impacts Program Effectiveness
- Establishing an Enterprise-wide Risk Management Framework

The topics discussed in the report encompass multiple challenge areas and attest to the complex nature of the AbilityOne Program. In this report, we introduce an emerging challenge with organizational governance and are placing it on a watch list as a potential reportable challenge for the Commission. The allocation of roles, authorities, and responsibilities among the Commission Senior Staff creates challenges in achieving positive business outcomes such as the ability to timely implement policies and initiatives, effectively execute changes in the programs, and support program growth.

As previously reported, the Council of Inspectors General on Integrity and Efficiency (CIGIE) consolidated the challenges encountered in 2017 by federal IGs across government. Our work was among the few referenced from the 61 OIG reports that CIGIE considered. The CIGIE report afforded the Commission positive exposure on its resource challenges for the administration of the complex AbilityOne Program.

Appendix II – Financial Audit



Office of Inspector General


Committee for Purchase From People Who Are Blind or Severely Disabled (U.S. AbilityOne Commission)

December 13, 2019

MEMORANDUM

FOR: Thomas D. Robinson
Chairperson
U.S. AbilityOne Commission

Tina Ballard
Executive Director

FROM: Thomas K. Lehrich 
Inspector General

SUBJECT: Audit of the U.S. AbilityOne Commission's Financial Statements
For Fiscal Year 2019, Report No. 20-02

I am pleased to provide the audit report on the U.S. AbilityOne Commission's (Commission) financial statements. The Office of Inspector General (OIG) contracted with the independent certified public accounting firm, Allmond & Company, LLC (Allmond & Company), to audit the Commission's financial statements and related footnotes as of September 30, 2019, and for the year then ended.

The audit resulted in an adverse opinion due to significant departures from generally accounting principles and federal reporting requirements, including material misstatements and omissions in the Commission's financial statements and footnotes. The misstatements and omissions were material and pervasive, and included the failure to record accounts payable accrual and accurately record other accrued liabilities, which materially misstated the Commission's beginning and ending balances, and the omission of uncorrected errors in required footnotes. As a result, the outside auditors determined the Commission's financial statements were not presented fairly, in all material respect, as of September 30, 2019, nor in accordance with accounting principles generally accepted in the United States of America.

The contract required Allmond & Company to conduct the audit in accordance with generally accepted government auditing standards (GAGAS), and the Office of Management and Budget (OMB) Bulletin No. 19-03, *Audit Requirements for Federal Financial Statements*.

Allmond & Company is responsible for the attached independent auditor's report and the conclusions expressed therein. The OIG does not express opinions on the Commission's financial statements or internal control over financial reporting, or conclusions on compliance or other matters. The audit report provides an opinion on the Commission's financial statements, and communicates reporting requirements on internal control over financial reporting and compliance with laws and regulations.

As required by GAGAS, Allmond & Company's report includes two material weaknesses and two significant deficiencies related to the Commission's internal control over financial reporting. In addition, there are two findings related to noncompliance with certain provisions of applicable laws and regulations. However, the objective of Allmond & Company was not to provide an opinion on internal control over financial reporting or compliance with laws, regulations, contracts, and grant agreements applicable to the Commission.

The OIG would like to thank the Commission staff, and especially the Chief of Staff, for the assistance and cooperation. If you have any questions or need additional information, please contact me.

Enclosure: *Independent Auditor's Report September 30, 2019*

**U.S. ABILITYONE COMMISSION
INDEPENDENT AUDITORS' REPORT
SEPTEMBER 30, 2019**



**ALLMOND & COMPANY, LLC
Certified Public Accountants
7501 Forbes Blvd., Suite 200
Lanham, Maryland 20706
(301) 918-8200**



Independent Auditors' Report

Commission Members and Executive Director
Committee for Purchase from People Who are Blind or Severely Disabled – U.S. AbilityOne Commission

Report on the Financial Statements

We have audited the accompanying financial statements of the Committee for Purchase From People Who Are Blind or Severely Disabled - U.S. AbilityOne Commission (Commission), which comprise the balance sheet as of September 30, 2019, and the related statements of net cost, changes in net position, and budgetary resources for the year ended, and the related notes to the financial statements (hereinafter referred to as the financial statements).

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this responsibility includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on the fiscal year 2019 financial statements of the Commission based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management Bulletin (OMB) Bulletin No. 19-03, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 19-03 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risk of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion.

An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Basis for Adverse Opinion

We identified significant departures from generally accepted accounting principles and federal reporting requirements, including material misstatements and omissions in the Commission's financial statements and footnotes. These misstatements and omissions were material and pervasive and included the failure to record an accounts payable accrual and accurately record other accrued liabilities, which materially misstated the Commission's beginning and ending balances, and the omission or uncorrected errors in required footnotes. These matters are discussed in detail in Exhibits I and II of the audit report. As of the date of our report, these errors and omissions have not been addressed by the Commission.

Adverse Opinion

In our opinion, because of the significance of the matter discussed in the Basis for Adverse Opinion paragraph, the financial statements referred to above do not present fairly, in all material respects, the financial position of the Committee for Purchase From People Who Are Blind or Severely Disabled - U.S. AbilityOne Commission as of September 30, 2019, or its net costs, changes in net position, and budgetary resources for the fiscal year then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

FY 2018 Financial Statements Audited by Other Auditors

The financial statements of the Commission as of and for the fiscal year ended September 30, 2018, were audited by another auditor, who expressed an unmodified opinion on those statements on December 1, 2018. These statements were not audited, reviewed, or compiled by us; accordingly, we do not express an opinion or any other form of assurance on them.

Required Supplementary Information

U.S. generally accepted accounting principles require that the information in the *Message from the Chairperson, Management Discussion and Analysis, and the Performance and Other Information* section of this report is presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of Commission's financial statements. However, we did not audit this information and, accordingly, we express no opinion on it.

Other Reporting Required by Government Auditing Standards

Report on Internal Control over Financial Reporting

In planning and performing our audit of the Commission's financial statements as of and for the year ended September 30, 2019, in accordance with generally accepted government auditing standards, we considered the Commission's internal control over financial reporting as a basis for designing audit

procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control over financial reporting. Accordingly, we do not express an opinion on the Commission's internal controls over financial reporting. We limited internal control testing to those necessary to achieve the objectives described in OMB Bulletin No. 19-03. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982 (FMFIA).

Our consideration of internal control over financial reporting was for the limited purpose as described in the paragraph above and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying Exhibit I and Exhibit II, we identified certain deficiencies in internal control that we consider to be a material weaknesses and significant deficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in their normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. We consider the deficiencies described in the accompanying *Exhibit I Findings and Recommendations* to be material weaknesses (2019-01 and 2019-02).

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness yet important enough to merit the attention by those charged with governance. We consider the deficiencies described in the accompanying *Exhibit II Findings and Recommendations* to be a significant deficiency (2019-03 and 2019-04).

Compliance and Other Matters

As part of obtaining reasonable assurance about whether Commission's fiscal year 2019 financial statements are free of material misstatements, we performed tests of Commission's compliance with certain provisions of applicable laws, regulations, contracts, and grant agreements, which noncompliance could have a direct and material effect on the determination of material amounts and disclosures in Commission's financial statements, and certain provisions of other laws specified in OMB Bulletin No. 19-03. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests of compliance as described in the preceding paragraph, disclosed two instances of noncompliance or other matters that are required to be reported herein under Government Auditing Standards or OMB Bulletin 19-03 and which are described in *Exhibit III Findings and Recommendations* (2019-05 and 2019-06).

Commission's Response to Findings

The Commission's responses to the findings identified in our audit are described immediately following Exhibit III. The Commission's responses were not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of the Other Reporting Required by Government Auditing Standards

The purpose of the communication described in the Other Reporting Required by Government Auditing Standards section is solely to describe the scope of our testing of internal control and compliance with selected provision of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on the effectiveness of Commission's internal control or on compliance. This communication is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal controls and compliance with laws, regulations, contracts, and grant agreements which could have a material effect on Commission's financial statements. Accordingly, this communication is not suitable for any other purpose.

Allmond & Company, LLC

Lanham, MD
December 3, 2019

Financial Statements and Footnotes Were Not Prepared in Accordance with Generally Accepted Accounting Principles and OMB Circular A-136 (2019-01)

CONDITION

Improvements are needed over U.S. AbilityOne Commission preparation of financial statements and footnote disclosures. During our review of the U.S. AbilityOne Commission (Commission) financial statements and footnotes for the interim reporting period ended June 30, 2019, we noted the financial statements and footnotes were not consistent with financial reporting requirements, as follows:

1. The Statement of Changes in Net Position (SCNP) was not prepared as required by OMB Circular A-136.
2. A variance analysis was not prepared for the Statement of Changes in Net Position.
3. Footnotes to the financial statements were not prepared as required by OMB Circular A-136.

In addition, the Commission's financial statements and footnotes for the reporting period ended September 30, 2019, were not consistent with generally accepted accounting principles (GAAP) and/or financial reporting requirements, as follows:

4. The Statement of Financing was included as a principal financial statement in error.
5. The Classified Activities footnote and related disclosure was required per federal financial reporting requirements, but was omitted in error.
6. The Inter-Entity Costs footnote and related disclosure was required per GAAP and federal financial reporting requirements, but was omitted in error.
7. Explanations for the difference of \$574 thousand between the agency's unobligated balance, end of year at 09/30/2018 and the unobligated balance from prior year budget authority, net, of the current year was required per federal financial reporting requirements and was omitted in error.
8. Undelivered Orders, Paid of \$25 thousand was omitted from the Undelivered Orders at the End of the Period footnote. In addition, the balances should have been separated into federal and nonfederal amounts.
9. The Leases footnote did not include a schedule of estimated future payments for the terms of the Commission's leases. Instead the note disclosed the prior year and current year (FY 2018 and FY 2019) periods rather than for FY 2020 and beyond. In addition, the amounts reported for the Commission's lease in Crystal City for FY 2019 per the footnote (\$450,000) did not agree to the lease agreement (\$351,000).
10. In the Explanation of Differences between the Statement of Budgetary Resources (SBR) and the Budget of the U.S. Government footnote, the \$832,539.06 difference between the amounts of Budgetary Resources per the SBR and the Budget of the U.S. Government were primarily attributed to rounding, with only a portion due to expired unobligated balances. However, as the amount related to expired balances, \$537,880.85, made up the majority of this difference, a separate reconciling item should have been included in the table to identify and explain this

difference. In addition, the amount reported in the schedule for Net Outlays per the Budget of the U.S. Government was \$8,000,000; the actual published amount for Net Outlays per the President's Budget was \$9,000,000, resulting in a \$1,000,000 understatement of this balance. There is also no explanation for the resulting difference in Net Outlays of \$576,480.12.

11. A Commitments and Contingencies footnote was required per GAAP and federal financial reporting requirements and was omitted in error. The Commission's General Counsel reported to us that there were two probable and two reasonably possible contingent liabilities as of 09/30/2019, each with a known or estimated range of potential loss. In addition, the known and estimated amounts of probable contingent liabilities should have been recorded to the general ledger and both the probable and reasonably possible contingent liabilities should have been disclosed in the financial statement footnotes.

The Intragovernmental and With the Public balances of Net Operating Cost in the Reconciliation of Net Cost to Net Outlay were materially misstated. The \$9,603,882.20 total amount of Net Operating Cost was reported as intragovernmental in error; the amounts that should have been reported as Intragovernmental and With the Public balances are \$2,182,340.99 and \$7,421,541.21, respectively.

CRITERIA

Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*, revised and effective on June 28, 2019, states, "Each Executive Branch entity that is required to prepare audited financial statements under the Chief Financial Officer's Act of 1990 (CFO Act), Government Management Reform Act of 1994 (GMRA), or the Accountability of Tax Dollars Act of 2002 (ATDA) must comply with Sections I, II, and IV of this Circular."

Note: all citations for OMB Circular A-136 included below are from the June 2019 revision, unless another date is shown.

- 1, 2 Section IV.2 states, "Unaudited interim financial statements must be submitted 21 business days after the end of the third quarter by agencies (section IV.1); comparative interim and year-end financial statement variance analyses are required for the Balance Sheet, SNC, and SCNP.
- 3 Section IV.3 states, "Unaudited notes must be submitted 45 business days after the end of the third quarter using OMB MAX."
- 4 Effective FY 2007, the Statement of Financing was no longer considered to be a basic statement (Section II.4.7 of the June 2007 revision) and was required to be presented instead as a footnote to the financial statements, entitled the Reconciliation of Net Cost of Operations (proprietary) to Budget. Effective in FY 2019, Section II.3.8.40 of the June 2019 revision replaced the Statement of Financing with a Reconciliation of Net Cost to Net Outlays in accordance with Statement of Federal Financial Accounting Standards 53, Budget and Accrual Reconciliation, effective for periods beginning after September 30, 2019.
- 5 Section II.3.8.1 added a new note disclosure for FY 2019 that is required by Statement of Federal Financial Accounting Standards (SFFAS) 56, *Classified Activities*. Section II.3.8.1 states that all

- federal reporting entities must include the following statement in the summary of significant accounting policies: "Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information."
- 6 Section II.3.8.26, *Inter-Entity Costs*, states, "Pursuant to SFFAS 4, as amended, paragraph 113A, reporting entities should disclose, if necessary, that only certain inter-entity costs are recognized for goods and services that are received from other federal entities at no cost or at a cost less than the full cost. Entities should also disclose the general nature of other imputed costs recognized in their financial statements in addition to the information shown below."
- 7 Section II.3.8.27, *Net Adjustments to Unobligated Balance Brought Forward, October 1*, states that agencies must "[d]isclose material adjustments during the reporting period to budgetary resources available at the beginning of the year and an explanation for the adjustments in accordance with SFFAS 7, paragraph 79.
- 8 Section II.3.8.30, *Undelivered Orders at the End of the Period*, states that agencies must "[d]isclose the amount of budgetary resources obligated for undelivered orders at the end of the period, separately disclosing Federal, non-Federal, paid, and unpaid amounts."
- 9 Section II.3.8.18, *Leases*, requires the disclosure of Future Payments Due "by major asset category for all non-cancelable leases with terms longer than one year." The disclosures are required for Years 1, 2, 3, 4, 5, and the total due after 5 years.
- 10 Section II.3.8.33, *Explanation of Differences between the SBR and the Budget of the U.S. Government*, states, "Agencies should explain material differences that exist between: 1. The budgetary resources, new obligations, upward adjustments (total), and net outlay amounts from the prior year (i.e., FY 2018) SBR and the actual amounts from "Detailed Budget Estimates by Agency" found in the Appendix of the Budget (i.e., the FY 2018 amounts in the FY 2020 Budget).
- 11 SFFAS 12 states, "For loss contingencies for matters of pending or threatened litigation and unasserted claims, a contingent liability would be recognized when a future outflow or other sacrifice of resources is "likely to occur," a past event or exchange transaction has occurred, and the future outflow or sacrifice of resources is measurable. In addition to recognition, disclosure would be required for loss contingencies on matters of pending or threatened litigation and unasserted claims if it is at least reasonably possible that a loss or an additional loss may have been incurred. The term "recognize" means the formal recording or incorporating of an item into the financial statements of an entity as an asset, liability, revenue, expense, etc." In addition, Section II.3.2.4, *Liabilities*, states, "A loss contingency is an existing condition, situation, or set of circumstances involving uncertainty as to possible loss to an entity. A contingent liability should be recorded when a past event or exchange transaction has occurred, a future outflow or other sacrifice of resources is probable, and the future outflow or sacrifice of resources is measurable. Contingencies that do not meet any of the conditions for liability recognition, but for which there is at least a reasonable possibility that a loss or an additional loss

may have been incurred, should be disclosed.”

- 12 In accordance with SFFAS 53, *Budget and Accrual Reconciliation*, Section II.3.8.40, *Reconciliation of Net Cost to Net Outlays*, states that agencies must “[d]isclose a reconciliation of net cost to net outlays in accordance with SFFAS 7, paragraphs 80-82 and 95 through 101.”

CAUSE

- 1-12 The Commission relies on its financial management shared service provider, the U.S. Department of Agriculture (USDA) Office of the Chief Financial Officer (OCFO) to prepare and submit the appropriate financial statements and notes for the agency, as required by generally accepted accounting standards and Federal government financial reporting requirements. The Commission does not have internal staffing resources with knowledge and experience with financial reporting who could review the work of the service provider and identify deficiencies in the financial reporting process.
- 1-12 It appears that the service provider was either not aware of the changes to the reporting requirements or used superseded guidance to prepare the interim and year-end financial statements and footnotes in error.
- 1-3 USDA stated that it is not its policy to prepare interim notes to the financial statements for their clients. We did not receive a response regarding the cause(s) of the errors and omissions in the year-end financial statements and footnotes.

EFFECT

- The Commission’s year-end financial statements and footnotes were not prepared and reported in accordance with generally accepted accounting principles (GAAP) for federal government entities, which resulted in the material misstatement or omission of the following financial statement line items and footnotes:
 - The Classified Activities and Inter-Entity Footnotes are required for federal government entities; the omission of these footnotes is not in compliance with GAAP
 - The Net Adjustments to Unobligated Balance Brought Forward, October 1 footnote is required when the difference between the ending unobligated balance from the prior year is materially different between the beginning unobligated balance, net, for the current year. The omission of a note explaining or reconciling the difference results in an apparent lack of consistency between financial statements that are presented comparatively and is not in accordance with OMB Circular A-136 federal reporting requirements.
 - The failure to include all balances in the Undelivered Orders footnote and to present each balance as federal or nonfederal can result in material misstatement of the footnote and is not compliance with GAAP and OMB Circular A-136 federal reporting requirements, respectively.

- The failure to report future payments in the Lease footnote resulted in a material understatement of the agency's future obligations and is not in accordance with GAAP and OMB Circular A-136 federal reporting requirements.
- The failure to use the correct amounts per the President's Budget in the Explanation of Differences between the SBR and the Budget of the U.S. Government footnote resulted in the failure to identify and explain a material variance in Net Outlays and the failure to properly identify and explain other differences in not in compliance with OMB Circular A-136 federal reporting requirements.
- In addition, the failure to disclose probable and reasonably possible contingent liabilities is not in accordance with GAAP. In addition, the failure to record probable losses due to pending or threatened litigation can result in material misstatements of Contingent Liabilities reported on the Balance Sheet, Future Funded Expenses included in Gross Costs and Net Cost of Operations on the Statement of Net Cost, and the Net Cost of Operations on the Statement of Changes in Net Position.

RECOMMENDATION

We recommend that Commission management:

1. Become familiar with OMB Circular A-136 and other authoritative guidance relating to financial reporting requirements to better oversee the performance of its shared service provider and to ensure that its reporting requirements are being fulfilled.
2. Advise the service provider that outdated/superseded guidance was used in the preparation of its financial statements and footnotes so that this issue can be addressed by the service provider in the future.
3. Request that the service provider begin preparing and submitting third quarter notes to the financial statements, in compliance with the financial reporting requirements which apply to agencies subject to the Accountability of Tax Dollars Act (ATDA) and take adequate steps to ensure that all of the year-end notes are included.
4. Request that the service provider enhance its current review procedures to identify errors and omissions in the required financial statements and footnotes and to ensure that all required presentation and disclosure requirements have been met.
5. In accordance with generally accepted accounting principles (GAAP), ask the Commission's General Counsel to identify loss contingencies relating to legal matters that should be recorded in the agency's general ledger and/or disclosed in the notes to the financial statements and instruct the service provider to record these entries and/or disclose these amounts, as appropriate.

MANAGEMENT RESPONSE

Management's response to the finding is presented in a separate letter immediately following this report.

AUDITORS' RESPONSE

We will perform follow up procedures during FY 2020 to determine if corrective actions have been implemented.

Year-End Accrued Liabilities Not Estimated or Accurately Recorded (2019-02)

CONDITION

The Commission's internal controls over the estimation and recording of accrued liabilities are not sufficiently designed to prevent, detect, or correct errors in its financial statements. During our performance of substantive procedures over the beginning and ending balances of Accounts Payable, Unfunded Federal Employees' Compensation Act (FECA) Liability, and Other Unfunded Employment Related Liabilities and the ending balance of Accrued Funded Payroll and Leave for fiscal year (FY) 2019, we noted the following errors:

Beginning Balances:

1. Accounts Payable:

We noted that the Commission's beginning Accounts Payable balance was \$12,056.84 as of 09/30/18. To determine if an Accounts Payable accrual should have been recorded to recognize operating expenses/program costs incurred for goods and services received during FY 2018, we selected a sample of 12 non payroll disbursement transactions which were recorded between 10/01/18 and 10/21/18 totaling \$160,642.22.

We noted exceptions for 8 of the 12 samples, as follows:

- For 6 of the 8 exceptions, the goods and/or services were received prior to 09/30/18 and the invoices were received prior to 09/30/18. These invoices, which totaled \$101,675.68, should have been recorded to accounts payable prior to the end of the fiscal year or included in the year-end accrual entry for the fiscal year ended 09/30/18.
- For 2 of the 8 exceptions, the goods and/or services were received during FY 2018; however, the invoices were received after 09/30/18. As the expenses were incurred for these transactions in FY 2018, these amounts, which totaled \$36,999.04, should have been accrued and included in the ending accounts payable balance as of 09/30/18.

2. Unfunded FECA and Unfunded Other Employment Related Liabilities

We obtained the Department of Labor (DOL) Liability for Current Federal Employees' Compensation Act Benefits and Liability for Federal Employees' Unemployment Benefits reports as of September 30, 2018 from the DOL website. The amounts billed and due as of 09/30/18 from the U.S. AbilityOne Commission for FECA and Federal Unemployment Benefits Liabilities were \$1,308.46 and \$34,812.81, respectively. The ending balance for both liability accounts was \$0 in the Commission's general ledger as of 09/30/18.

Ending Balances:

1. Accounts Payable:

We noted that the Commission's ending Accounts Payable (Disbursements in Transit) balance was

\$8,387.28 as of 09/30/19. We selected a sample of 20 non payroll disbursement transactions which were recorded between 10/01/19 and 10/31/19 totaling \$212,115.18. We noted exceptions for 17 of the 20 samples, as follows:

- For 3 of the 17 exceptions, the goods and/or services were received prior to 09/30/19 and the invoices were received prior to 09/30/19. These invoices, which totaled \$3,484.69 should have been recorded in accounts payable prior to the end of the fiscal year or included in the year-end accrual entry for the fiscal year ended 09/30/19.
- For 14 of the 17 exceptions, the goods and/or services were received during FY 2019; however, the invoice was received after 09/30/19. As the expenses were incurred for these transactions in FY 2019, these amounts, which totaled \$200,278.81, should have been accrued and included in the ending accounts payable balance as of 09/30/19.

2. Accrued Funded Payroll and Leave

We noted that the amount recorded in the agency's general ledger for the Accrued Funded Payroll and Leave liability for the period ended 09/30/19 was \$225,553.48, which appears to be based on the combined total for both payroll and leave and employee benefits in error. As a separate accrual for the benefits portion of the accrued payroll expenses was separately recorded to Employer Contributions and Payroll Taxes Payable, this resulted in an overstatement of \$52,761.08 of Accrued Funded Payroll and Leave and the effective double counting of the amount recorded to Employer Contributions and Payroll Taxes Payable.

3. Unfunded FECA and Unfunded Other Employment Related Liabilities

We obtained the Department of Labor (DOL) Liability for Current Federal Employees' Compensation Act Benefits and Liability for Federal Employees' Unemployment Benefits reports as of September 30, 2019 from the DOL website. The amounts billed and due as 09/30/19 from the U.S. AbilityOne Commission for FECA and Federal Unemployment Benefits Liabilities were \$1,308.46 and \$0, respectively. The ending balance for both liability accounts was \$0 in the Commission's general ledger as of 09/30/19.

CRITERIA

Statement of Federal Financial Accounting Standards (SFFAS) Number (No.) 5, Accounting for Liabilities of the Federal Government, provides the definition and general principles for the recognition of a liability: A liability for federal accounting purposes is a probable future outflow or other sacrifice of resources as a result of past transactions or events. General purpose federal financial reports should recognize probable and measureable future outflows or other sacrifices of resources arising from (1) past exchange transactions, (2) government-related events, (3) government-acknowledged events, or (4) nonexchange transactions that, according to current law and applicable policy, are unpaid amounts due as of the reporting date."

The Government Accountability Office (GAO's) Standards for Internal Control in the Federal Government, states the following:

Principle 10.01: Design Control Activities:

“Management should design control activities to achieve objectives and respond to risks. The following attributes contribute to the design, implementation, and operating effectiveness of this principle:

- Response to Objectives and Risks
- Design of Appropriate Types of Control Activities
- Design of Control Activities at Various Levels
- Segregation of Duties”

CAUSE

- The Commission does not have a control procedure in place to ensure that invoices received on/before September 30 of each fiscal year have been recorded in its financial management system prior to the close of the reporting period.
- The Commission does not have a control procedure in place to estimate accounts payable to be accrued at year-end in accordance with generally accepted accounting principles.
- The Commission does not have written policies and procedures in place for the performance or review of functions pertaining to financial reporting, including necessary year-end adjustments and accruals in accordance with generally accepted accounting principles.
- Existing policies and procedures for the review of accrual calculations and the completeness of the liabilities owed by the Commission are not sufficient to identify errors and omissions.

EFFECT

There is an increased risk of material and pervasive misstatements of the balances reported on the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, Statement of Budgetary Resources, and financial statement footnotes for each year in which accrued liabilities are not recorded in the general ledger or are recorded for incorrect amounts, as follows:

Beginning Balances:

1. Accounts Payable:
 - Operating Expenses/Program Costs, Accounts Payable, Delivered Orders-Unpaid, Expended Appropriations, and Unexpended Appropriations-Used were understated by at least \$138,674.72 for the fiscal year ended 09/30/18.
 - The balance of Undelivered Orders – Obligated, Unpaid was overstated by at least \$138,674.72 as of 09/30/18.

- The FY 2019 beginning balance of Cumulative Results of Operations was understated by \$36,121.27 as of 10/01/18.
- The FY 2019 beginning balance of Unexpended Appropriations cumulative was overstated by \$138,674.72 as of 10/01/18.

2. Unfunded Accrued Liabilities:

- Employer Contributions to Employee Benefits Not Requiring Current Year Budget Authority, Unfunded FECA Liability, and Other Unfunded Employment Related Liabilities were understated by \$36,121.27, \$1,308.46, and \$34,812.81, respectively, for the fiscal year ended 09/30/18.
- The FY 2019 beginning balance of Cumulative Results of Operations, Unfunded FECA Liability, and Other Unfunded Employment Related Liabilities was understated by \$36,121.17.

Ending Balances:

1. Accounts Payable:

- Operating Expenses/Program Costs, Accounts Payable, Delivered Orders-Unpaid, Expended Appropriations, and Unexpended Appropriations-Used were understated by at least \$203,763.50 for the fiscal year ended 09/30/19.
- The balance of Undelivered Orders – Obligated, Unpaid was overstated by at least \$203,763.50 as of 09/30/19.
- Operating Expenses/Program Cost, Expended Appropriations, and Unexpended Appropriations-Used that should have been recognized in FY 2018 instead of FY 2019 caused the ending balances of these accounts to be overstated by at least \$138,674.72 for the fiscal year ended 09/30/19.

2. Unfunded Accrued Liabilities:

- Unfunded FECA Liability was understated by \$1,308.46 for the fiscal year ended 09/30/19.

3. Funded Accrued Liabilities:

- Accrued Funded Payroll and Leave, Delivered Orders-Obligations, Unpaid, Expended Appropriations, Unexpended Appropriations-Used, and Operating Expenses/Program Costs were overstated by \$52,761.08 for the fiscal year ended 09/30/19.
- Allotments was understated by \$52,761.08 for the fiscal year ended 09/30/19.

RECOMMENDATION

We recommend that:

1. Commission management develop a procedure to review disbursements made early in the subsequent reporting period to identify items which should be included in its year-end accounts payable or develop an alternative procedure which appropriately estimates the amount of these liabilities at year-end;
2. Commission management independently verify the amounts recorded for accrued liabilities by its shared service provider or participate in the calculation of the recorded amounts;
3. Commission management develop written policies and procedures for the financial reporting process, including procedures to identify and perform (or assist its service provider in preparing) year-end entries to the general ledger that are required by generally accepted accounting principles;
4. Commission management develop written policies and procedures which define the roles and responsibilities of the service provider and Commission staff in performing financial reporting functions;
5. Commission management direct its shared service provider to enhance its existing policies and procedures to provide a more thorough review of its calculation of payroll accruals and to review published resources in order to ensure that all unfunded liabilities assessed to the Commission have been recorded.

MANAGEMENT RESPONSE

Management's response to the finding is presented in a separate letter immediately following this report.

AUDITORS' RESPONSE

We will perform follow up procedures during FY 2020 to determine if corrective actions have been implemented.

Improvements Needed in the Computation of Imputed Costs (2019-03)

CONDITION

During our review of the U.S. AbilityOne Commission (Commission) fiscal year (FY) 2019 Office of Personnel Management (OPM) Imputed Costs computation, we noted that the agency's service cost relating to the Civil Service Retirement System (CSRS) and Federal Employees' Retirement System (FERS) pension programs was calculated at year end using the FY 2019 OPM cost factors; however, imputed cost that was calculated and recorded at interim using the FY 2018 cost factors was not recalculated and adjusted using the FY 2019 cost factors, resulting in an understatement of imputed costs and financing sources on the FY 2019 financial statements and footnotes as of September 30, 2019. The FY 2019 cost factors should have been applied to all pay periods that were paid during FY 2019.

CRITERIA

The Office of Personnel Management's (OPM) Benefits Administration Letter (BAL) 03-309, issued September 15, 2003, provides detailed instruction for computing and accounting for imputed costs and states that agencies compute total service cost "by multiplying the basic pay paid in [the fiscal year] for each CSRS and FERS category by the applicable cost factor." Basic pay is defined as, "the portion of gross pay from which agencies withhold CSRS and FERS deductions; it generally excludes bonuses, allowances, overtime, and holiday pay."

OPM Benefits Administration Letter 19-304, issued February 2019, "provides the FY 2019 cost factors for the Federal civilian benefit programs. Agencies will use these factors to calculate their imputed costs relating to the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS), the Federal Employees Health Benefits Program (FEHB) and the Federal Employees' Group Life Insurance Program (FEGLI)." The cost factors provided for CSRS, FERS, FERS-RAE, and FERS-FRAE for FY 2019 were 38.4%, 16.9%, 17.3%, and 17.6%, respectively.

CAUSE

The Commission's financial management services provider, the U.S. Department of Agriculture (USDA) Office of the Chief Financial Officer (OCFO) did not use the cost factors which applied to FY 2019 for all of the pay periods paid during the fiscal year and did not record appropriate adjustments to imputed costs that were calculated and recorded at interim to ensure that the balances of imputed costs and imputed financing sources were correct as of September 30, 2019.

EFFECT

The Commission's financial statements and notes were impacted as follows:

- Imputed Financing Sources in the Statement of Net Position was understated by a known amount of \$22,502.53.
- Intragovernmental Gross Cost in the Statement of Net Cost, Inter-Entity Costs footnote, and Reconciliation of Net Cost to Outlays footnote were understated by a known amount of \$22,502.53.

RECOMMENDATION

We recommend that the Commission and its service provider review the calculations and other supporting documentation relating to all imputed cost and financing source entries that were recorded during the fiscal year to ensure that:

1. the current fiscal year cost factors are used to compute imputed cost and financing sources for all pay periods that were paid during the fiscal year, and
2. any entries recorded during the fiscal year are adjusted for differences between the prior year cost factors that were used to compute imputed cost at interim and the recalculated amounts using the current fiscal year cost factors.

MANAGEMENT RESPONSE

Management's response to the finding is presented in a separate letter immediately following this report.

AUDITORS' RESPONSE

We will perform follow up procedures during FY 2020 to determine if corrective actions have been implemented.

Employee Benefits Election Forms Not Maintained in eOPF per OPM Requirements (2019-04)

CONDITION

The Commission's internal controls over the maintenance of employees' personnel records are not sufficiently designed to prevent, detect, or correct errors in employees' payroll records. During our review of 45 payroll transactions selected from the population of all employees paid during the period of October 1, 2018 through September 30, 2019, we noted the following testwork exceptions:

- Seventeen (17) instances in which we were not able to inspect and verify the employees' Thrift Savings Plan (TSP) elections timely because the Commission was not able to provide the TSP election forms in effect for the pay periods selected within the audit testing period.
- Seven (7) instances where the Commission was not able to provide the employees' Federal Employees Health Benefits (FEHB) Program election forms (SF-2809) in a timely manner.
- One (1) instance in which we were not able to inspect and verify the employee's Federal Employees' Group Life Insurance (FEGLI) Program election timely because the Commission was not able to provide the SF-2817 FEGLI election form in effect for the pay period selected within the audit testing period.

We noted that the Commission subsequently provided additional documentation that resolved the FEHB and FEGLI exceptions and 7 of 17 of the TSP exceptions identified above; however, the Commission was not able to provide adequate supporting documentation for 10 of the 17 TSP samples. In addition, this documentation was received 36 days after our initial request and 15 days after the testing period ended and therefore did not meet the OPM requirements for timeliness and availability.

CRITERIA

The Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government*, states "Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination... All documentation and records should be properly managed and maintained."

Electronic Code of Federal Regulations, Title 5-Administrative Personnel, Chapter 1- Office of Personnel Management, Subchapter B-Civil Service regulations, part 293-Personnel records, subpart A-Basic Policies on Maintaining Personnel records, section 293.103. - Recordkeeping Standards states that:

“(a) The head of each [agency](#) shall ensure that persons having access to or involved in the creation, development, processing, use, or maintenance of [personnel records](#) are informed of pertinent recordkeeping regulations and requirements of the Office of Personnel Management and the [agency](#).

(b) The [Office](#) is responsible for establishing minimum standards of accuracy, relevancy, necessity, timeliness, and completeness for [personnel records](#) it requires agencies to [maintain](#).”

Exhibit II Significant Deficiencies
Findings and Recommendations

U.S. Office of Personnel Management Operating Manual – The Guide to Personnel Recordkeeping, Update 13 June 1, 2011, Chapter 1: General Personnel Recordkeeping Policies, Electronic Records, states, “The purpose of the electronic Official Personnel Folder (e-OPF) and the paper Official Personnel Folder (OPF) is to document the employment history of individuals employed by the Federal Government. The electronic Official Personnel Folder must be complete; that is, when combined with any other documents the agency chooses to retain in paper, or is required by law or regulation to be maintained in paper, it must contain all the information.

OPM requires that each agency ensures that electronic Official Personnel Folder systems

- Be thoroughly documented.
- Be able to produce legible paper copies of all records.
- Have access controls to ensure a high level of security and confidentiality.
- Allow correction and removal of erroneous records under strict authorization controls.
- Include backup and disaster recovery procedures.”

CAUSE

- The Commission and its payroll and personnel shared service provider, the General Services Administration (GSA), do not have control procedures in place to ensure that employees' benefit election forms are thoroughly documented in the electronic Official Personnel Folder (e-OPF) in accordance with OPM requirements.
- The Commission and its payroll and personnel shared service provider, the General Services Administration (GSA) do not have control procedures in place to ensure that employees' benefit election forms are updated in the electronic Official Personnel Folder (e-OPF) when employees change their benefit elections.

EFFECT

The failure to properly record and maintain employees' official personnel records increases the risk for misstatement in payroll expense and related liabilities; in addition, incorrect amounts could be withheld from employees pay.

Incorrect health, life, and retirement benefits information in the eOPF can negatively affect employees' in the event of a loss or claim.

RECOMMENDATION

1. We recommend that the Commission consider performing routine reviews of employee benefit elections and Official Personnel Files (OPFs) to ensure they are complete and accurate and address this issue with its shared service provider to ensure that OPM guidance is appropriately followed with respect to the Commission's personnel records.

MANAGEMENT RESPONSE

Management's response to the finding is presented in a separate letter immediately following this report.

AUDITORS' RESPONSE

We will perform follow up procedures during FY 2020 to determine if corrective actions have been implemented.

Exhibit III Noncompliance with Laws & Regulations
Findings and Recommendations

Management Assurance Statement Was Not Prepared (2019-05)

CONDITION

During our review of the draft Performance and Accountability Report (PAR), we determined that the Commission failed to include a Management Assurance Statement that provided reasonable assurance regarding the effectiveness and efficiency of operations, compliance with regulations and applicable laws, and reliability of financial reporting.

CRITERIA

The Federal Managers' Financial Integrity Act of 1982 (FMFIA), Public Law 97-255, Section (3) states, "By December 31, 1983, and by December 31 of each succeeding year, the head of each executive agency shall, on the basis of an evaluation conducted in accordance with guidelines prescribed under paragraph (2) of this subsection, prepare a statement –

(A) that the agency's systems of internal accounting and administrative control fully comply with the requirements of paragraph (1); or (B) that such systems do not fully comply with such requirements.

Section 2(d)(1)(A) states, "To ensure compliance with the requirements of subsection (a)(3) of this section, internal accounting and administrative controls of each executive agency shall be established in accordance with standards prescribed by the Comptroller General, and shall provide reasonable assurances that --

- (i) obligations and costs are in compliance with applicable law;
- (ii) funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and
- (iii) revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets.

Section 2(d)(1)(B) states that "The standards prescribed by the Comptroller General under this paragraph shall include standards to ensure the prompt resolution of all audit findings."

Section (4) In the event that the head of an agency prepares a statement described in paragraph (3)(B), the head of such agency shall include with such statement a report in which any material weaknesses in the agency's systems of internal accounting and administrative control are identified and the plans and schedule for correcting any such weakness are described.

Section (5) The statements and reports required by this subsection shall be signed by the head of each executive agency and transmitted to the President and the Congress.

Exhibit III Noncompliance with Laws & Regulations
Findings and Recommendations

OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control section VI. Reporting on Internal Controls, states that:

“The assurance statement and summary information related to Section 2 and Section 4 of the FMFIA must be provided in a single report section of the annual AFR, PAR, or other management report labeled “Analysis of Entity’s Systems, Controls and Legal Compliance.” The section must include the annual assurance statement, a summary of the Agency’s process for assessing internal control effectiveness and resulting material weaknesses and corrective action plans as of September 30 of a given fiscal year...”

OMB Circular A-136, Financial Statement Reporting requirements, section II.2.7. Analysis of Systems, Controls and Legal Compliance states that:

“Agencies are required to provide “Management Assurances” related to the FMFIA and the Federal Financial Management Improvement Act (FFMIA) in the Analysis of Systems, Controls, and Legal Compliance section of their AFR or PAR. Agencies may submit a single statement signed by the agency head for both FMFIA and FFMIA. Under OMB Circular A-123, management must ensure that the agency process for assessing internal control is integrated with the agency risk profile.

For the FMFIA, management should:

- To ensure compliance with the requirements of subsection (a)(3) of this section, internal accounting and administrative controls of each executive agency shall be established in accordance with standards prescribed by the Comptroller General, and shall provide reasonable assurances that:

- (i) Obligations and costs are in compliance with applicable law;
- (ii) funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and
- (iii) revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets.

(B) The standards prescribed by the Comptroller General under this paragraph shall include standards to ensure the prompt resolution of all audit findings.

- Identify the material weakness (es) (FMFIA § 2) and instance(s) of non-compliance (FMFIA § 4), include a statement of the assurance (unmodified, modified, or no assurance), and a summary of corrective actions to resolve the material weakness(es) and instance(s) of non-compliance...”

Exhibit III Noncompliance with Laws & Regulations
Findings and Recommendations

CAUSE

The Commission does not have a control procedure in place to ensure that the agency is aware of and is meeting its financial reporting requirements, such as the preparation and submission of an annual Management Assurance Statement.

In addition, the agency does not appear to have an internal risk assessment process that can be used to determine the effectiveness of internal controls, identify material weaknesses, and proactively develop corrective action plans.

EFFECT

The Commission is in noncompliance with the FMFIA and OMB Circulars A-123 and A-136 requirements.

In addition, the failure to establish an internal assessment process can hinder the agency's ability to identify and remediate control deficiencies relating to financial reporting and noncompliance with laws and regulations and the agency may fail to ensure that funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation.

RECOMMENDATION

1. We recommend that the Commission management develop and document a process to evaluate its internal controls over financial reporting which provides (1) an assessment of the effectiveness of the organization's internal controls to support reliable financial reporting, effective and efficient programmatic operations, and compliance with applicable laws and regulations, and (2) an assessment of whether financial management systems comply with Federal financial management systems requirements.

MANAGEMENT RESPONSE

Management's response to the finding is presented in a separate letter immediately following this report.

AUDITORS' RESPONSE

We will perform follow up procedures during FY 2020 to determine if corrective actions have been implemented.

Exhibit III Noncompliance with Laws & Regulations
Findings and Recommendations

Potential ADA Violation Relating to the Obligation of Expired Funds (2019-06)

CONDITION:

The Commission potentially violated the Anti-Deficiency Act (ADA) by entering in new obligations using funds that were no longer available for obligation. During our test work over disbursements and obligations, we noted the following exceptions:

- Eight new obligations which totaled \$704,875.19 were recorded in the general ledger to the expired FY 2017 and FY 2018 Treasury Account Symbols (TAS) during fiscal year (FY) 2019.
- Two instances which totaled \$451,333.08 (\$250,000 and \$201,333.08) in which lump sums of payments recorded to current year obligations were transferred (or reclassified) to contracts that were assigned to prior year TAS (\$445,510.75 to FY 2018 and \$5,822.33 to FY 2017), effectively creating new obligations of the prior year expired funds and improperly liquidating the expired balances.
- Six instances in which the amounts recorded to the Commission's general ledger to obligate prior year funds during FY 2019 did not agree to the source documentation (i.e., purchase orders, contract modifications, and payment transfers).

CRITERIA:

31 United States Code (USC) §1502. Balances Available, section (a) states, "The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with [section 1501 of this title](#). However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

31 USC §1501. Documentary Evidence Requirement for Government Obligations, section (a) states, "An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—(1) a binding agreement between an agency and another person (including an agency) that is—(A) in writing, in a way and form, and for a purpose authorized by law; and (B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided.

CAUSE:

- Existing controls were not sufficient to prevent or detect and correct new obligations that were directly recorded to prior year expired Treasury Account Symbols (TAS) during fiscal year (FY) 2019 through the use of purchase orders and funding documents. We noted that the above activity appeared to be confined to three vendors that provide contracted labor services to the Commission over multiple option years; however, services that were provided during the current year and applied to the current option year were effectively paid from the base year and prior years.

Exhibit III Noncompliance with Laws & Regulations
Findings and Recommendations

- The financial system is not configured on the purchase order level to prevent payments which exceed the amounts that have already been obligated in the general ledger from being recorded. That is, when payments or reclassifications are processed, the obligated amount is automatically increased if the amount of the payment exceeds the total obligations recorded in the general ledger for the purchase order, resulting in the effective increase of the prior year obligated amounts.
- Existing controls are not sufficient to prevent or detect and correct the incorrect reclassification of payments applied to the FY 2019 TAS to prior year TAS.
- Existing controls are not sufficient to prevent or detect entries to the general ledger agree that do not agree with source documentation (i.e., purchase orders, contract modifications, vendor invoices, and payment transfers).

EFFECT:

- The Commission is in potential violation of 31 USC §1501 and §1502.

RECOMMENDATION:

We recommend that Commission management:

1. Ensure that new obligations are recorded only within the current fiscal year, as required by law.
2. Ensure that no payment reclassifications are performed between TAS unless the payment documentation is sufficient to show that the payment was applied to another TAS in error and there are sufficient existing obligated balances in excess of the amount(s) of the payment(s).
3. Ensure that all obligations recorded to the general ledger are properly supported (i.e., the obligated amount recorded agrees to the obligating document).
4. Open and complete a review into the potential ADA violation noted and report to the appropriate parties, as necessary, so that the Commission can determine if an actual violation occurred.

MANAGEMENT RESPONSE

Management's response to the finding is presented in a separate letter immediately following this report.

AUDITORS' RESPONSE

We will perform follow up procedures during FY 2020 to determine if corrective actions have been implemented.



U.S. ABILITYONE COMMISSION

December 12, 2019

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U.S. ABILITYONE COMMISSION FY19 FINANCIAL STATEMENT AUDIT RESPONSE TO FINDINGS

1. NFR-2019-01

Financial Statements and footnotes were not prepared in accordance with Generally Accepted Accounting Principles and OMB Circular A-136

COMMISSIONS REPOSE: CONCUR. The Commission has corrected this statement on the 837 notes to the extent possible however, additional changes to the financial statement are required from the shared service provider United States Department of Agriculture (USDA). The Commission is currently working with USDA to take corrective action to resolve the incorrect balances identified on the financial statement.

2. NFR-2019-02

Year-End Accrued Liabilities not estimated or accurately recorded

COMMISSIONS REPOSE: CONCUR. The Commission has requested that USDA take corrective action to resolve the issue. Also, the Commission will submit accrued estimated to USDA no later than 15 September for services performed in prior fiscal years.

3. NFR-2019-03

Improvements needed in the computation of Imputed Cost

COMMISSIONS REPOSE: CONCUR. The Commission is working with USDA to establish a quarterly budget review to ensure all cost are recorded properly.



4. NFR-2019-04

Employee Benefits Election forms are not maintained by the Commission in E-opf per Office of Personnel Management (OPM) requirements.

COMMISSIONS REPOSE: CONCUR. The Commissions human resource shared service provider, General Services Administration (GSA) does not maintain hard copies of this document however, GSA has granted the Commission access to the system to pull summary Employee Benefit Election information.

5. NFR-2019-05

Management Assurance Statement was not prepared

COMMISSIONS REPOSE: CONCUR. This was an oversight on the part of the Commission however, a Management Assurance Statement has been included in the FY 2019 Performance and Accountability Report.

6. NFR-2019-06

Potential Anti-Deficiency Act (ADA) Violation relating to the obligation of expired funds

COMMISSIONS REPOSE: CONCUR. The Commission has requested that USDA conduct an internal review/investigation into the root cause of the violation.

Please feel free to contact me on (703) 603-2122 or tballard@abilityone.gov if you have any questions.



E. Ballard
Executive Director

