



# U.S. AbilityOne Commission Town Hall

March 29, 2023



# Meeting Logistics

- ASL interpreters are pinned to the top of the Zoom screen; live captioning is enabled. To see captions on your screen, please use the CC icon at the bottom of the Zoom window.
- Please send all questions and comments during the meeting to [policy@abilityone.gov](mailto:policy@abilityone.gov).
- When the discussion portion of the Town Hall begins, please use the “raise hand” feature in Zoom to speak.
- We ask speakers to identify themselves and speak clearly.



# Agenda

- Strategic Objectives 2 and 3
- Compliance Policies Context
- A Brief History of Compliance
- Presentation of Draft Policies 51.400, 51.403 and 51.405
- Glimpse at Upcoming Policies
- Questions and Discussion



# Strategic Plan Objectives 2 & 3

**Strategic Objective 2:** Identify, publicize, and support the increase of **good jobs** and optimal jobs in the AbilityOne Program.

**Strategic Objective 3:** Ensure **effective governance** across the AbilityOne Program.



# General Performance Management

Compliance with AbilityOne Program Requirements

Excellent Customer Experience



# Compliance with AbilityOne Program Requirements

(New published proposed guidance in red and \*)

## Overall Compliance Framework (51.400)\*

Determining Eligibility of  
Participating Employees (51.403)\*

DLH Ratio Requirements (51.404)

Responsibilities Toward  
Participating Employees (51.405)\*

Compliance with Employment  
Laws (51.406)

Entry Qualifications (51.401)

Program Qualifications (51.402)

Inspections, Corrective Actions,  
and Disqualifications (51.407)



# A Brief History of Compliance

**2006: GAO Report** emphasizes that compliance is inherently a governmental function that is the Commission's responsibility.

**2013: GAO Report** calls for better oversight by the AbilityOne Commission of NPAs and enhanced control by the Commission over the CNAs.

**2016: First Cooperative Agreements with CNAs.** NIB is required to review all its associated NPAs each year; SourceAmerica is required to review 70% of its associated NPAs each year.

**Between 2010 through 2015:** Commission staff did 487 inspections; SourceAmerica staff did 783 inspections; and NIB staff did 117 inspections. There was limited coordination between the Commission and the CNAs on these inspections.



# A Brief History of Compliance (cont.)

**2017 to 2021: NDAA Sec. 898 Panel Reports** call for increased Commission compliance efforts; suggest 18 FTEs are needed.

**Resources:** 4 to 5 Commission compliance staff -- halt inspection visits and shift focus to data submitted by the NPAs via the CNAs.

**2018 to 2022: IG Reports** consistently call for Commission to conduct direct NPA inspections and increase oversight of CNAs.

**2021 to 2022:** Commission conducts 287 inspections jointly with the CNAs.

**2022:** IG Audit cites need for **numerous improvements** – clearer guidance; better coordination with and oversight of the CNA's work; and more control over corrective action follow-up.





# Inspection Overview 2021-2022

- **2021**

- 3 Commission staff jointly participated in 73 of SourceAmerica's 282 reviews and 24 of NIB's 57 reviews.
- Of the 339 total reviews, 284 were virtual and 55 were onsite.

- **2022**

- 6 Commission staff jointly participated in 168 of SourceAmerica's 291 reviews and 22 of NIB's 57 reviews.
- Of the 348 total reviews, 152 were virtual and 196 were onsite.



# IT'S TIME FOR A NEW APPROACH



# New Compliance Approach

- **“More of the same” will not achieve the Commission’s strategic objectives or oversight responsibilities.**
  - Clearly specifying expectations – both new and continuing requirements – is the necessary foundation.
  - Duplicating or supplementing the CNAs’ frontline NPA reviews does not optimize limited Commission resources.
  - The Commission will exercise its authority to oversee, manage, and perform quality control of CNAs’ duties.
- **The Commission’s modernized compliance approach consists of appropriate delegation to, and robust oversight and quality control of, the CNAs and final approval of corrective actions completed by NPAs.**



# 51.400: Compliance Overview Draft

- **What is not changed: CNA's responsibilities to the Commission**
  - Monitor, evaluate, and report on its affiliated NPAs' performance of Program requirements. (41 CFR 51-3.2(b)).
  - Provide, to its affiliated NPAs, technical assistance to enable them to meet Program requirements. (41 CFR 51-3.2(j)).
- **What is enhanced: the Commission's oversight of the CNA's work**
  - CNAs must have a Compliance Program that is acceptable to the Commission.
  - The Commission will have an enhanced oversight and control system.
  - The Commission is the final arbiter of corrective actions.



# Compliance: Importance and Consistency

## Reinforcement of AbilityOne Program requirements:

- **Disability Eligibility Evaluation** – clarifying that multiple sources of disability documentation are acceptable + significant job supports determination. (41 CFR 51-4.3 (b) (6) and ( c) 1))
- **Job individualization, Person-Centered Employment Plans (PCEP), and Career Advancement Program** – the next evolution of the Individual Eligibility Evaluation and placement program practices. (41 CFR 51-4.3 (b) (7) and ( c )(2))
- **Comply with applicable Employment and Labor Laws**



# 51.403: Goals of the Guidance

An employee must be blind or have a significant disability to count towards the 75% DLH ratio. Our proposed 51.403 guidance calls that person a “participating employee.”

The goals of 51.403 are to:

- **Clarify** what is required for an NPA to establish a person’s eligibility as a participating employee.
- **Reduce the documentation burden** on NPAs.
- Ensure that NPAs **hire the people that the Program is intended to benefit.**

The Commission must do this in a fashion consistent with JWOD’s statutory definition.



# 51.403: Eligibility of Participating Employees

JWOD defines a person with a “**severe disability**” as an “individual . . . under a physical or mental disability . . . which (according to criteria established by the Committee [Commission] after consultation with appropriate entities of the Federal Government and taking into account the views of non-Federal Government entities representing the disabled) constitutes a substantial handicap to employment and is of a nature that prevents the individual from currently engaging in normal competitive employment.” (Emphasis added).



# 51.403: Social Security and Medicaid

- A certification from the Social Security Administration that an individual is **eligible for SSDI or SSI** will be sufficient to establish that the person has a “**significant disability**” or (if applicable) is blind.
- A certification from a **state Medicaid agency** that an individual is **eligible for Home and Community Based Services** will be sufficient to establish that the person **has a “significant disability”** or (if applicable) is blind.
- This certification will be done **upon entry to the job** and the individual **will not need to be reevaluated each year.**





# Policy 51.403: Voc Rehab and VA Benefits

- A certification by a **Vocational Rehabilitation agency** that an individual **is eligible for services**, or
- A certification by the **Department of Veterans Affairs** that a veteran is eligible for **any level of disability benefits** –
  - will be sufficient **medical documentation** that the individual **has a disability** or (if applicable) is **blind if the certification states the specific disability.**
- This medical documentation will be collected **only once upon entry.**
- A qualified professional must then **determine** that the person **also requires significant job supports to perform the job** in order for the person to be eligible as a “participating employee.”



# Veterans Affairs Documentation

- Obtaining a decision letter from Veterans Affairs (VA) is **not a difficult process** – but depending on how you request the letter it **may take some time to receive it**.
- Veterans Affairs **makes the determination** of service-connected disabilities.
- A Veteran with a 30% service-connected disability **could** require job supports and a Veteran with 100% disability **might not** require any job supports.
- As a statutory matter this is why we need a **Qualified Professional** to make the qualification determination as mentioned previously.
- Veterans can obtain a VA disability breakdown letter by calling the VA Benefits Assistance Service Hotline at (800) 827-1000.



# 51.405: NPA Responsibilities to Participating Employees

Since 1991, AbilityOne regulations have required the following:

- **§51-4.3(c)(2):** An **annual evaluation** of each participating employee **by an individual ”qualified by training and experience** to evaluate the work potential, interests, aptitudes, and abilities of persons with disabilities.”
- **§51-4.3(b)(8):** An “ongoing **placement program operated by or for the nonprofit agency** . . . Those individuals determined capable and desirous of normal competitive employment shall be assisted in obtaining such employment.”
- A large majority of AbilityOne NPAs have signed up for the voluntary **Quality Work Environment (QWE) program**.



# 51.405: NPA Responsibilities to Participating Employees (cont.)

- Guidance 51.405 provides further substance to the **existing regulatory requirements** and QWE efforts.
- A **job individualization** identifies the appropriate job based on an individual's skills and interests and identifies the job supports necessary for the person to do the job successfully.
- A **Person-Centered Employment Plan (PCEP)** recognizes that employees will have different job desires and the PCEP will reflect that self-determination.
- A **career advancement program** is a program that is consistent with employees' Person-Centered Employment Plans (PCEPs) and supports the upward employment and/or outward employment of participating employees.



# 51.405 Crosswalk

## Regulations

- §51-4.3(c)(2): An annual evaluation of each participating employee by a qualified professional...
- §51-4.3(b)(8): An “ongoing placement program operated by or for the nonprofit agency...”

## Existing Implementation

- Initial and Annual IEE Form
- Placement Program

## Enhanced Implementation

- Job Individualization/PCEP
- Career Advancement Plan



# 51.405: NPA Responsibilities to Participating Employees (cont.)

- The Commission **will develop the standards** for job individualizations, PCEPs and career advancement programs, in consultation with the CNAs and subject matter experts.
- The CNAs will work with their NPAs to recommend to the Commission any necessary (**implementation**) **timeline** for a specific NPA. Each NPA must explore **all possible resources** for the provision of these activities during the phase-in timeline.
- The CNAs will collect the **data** required by these standards in a manner that will be **fully accessible** to Commission staff.
- If an NPA has made **significant and good faith efforts** to obtain resources during the phase-in period but has failed to do so, the NPA may seek an exemption from the Commission from these responsibilities.



# Upcoming 51.406: Compliance with Employment Laws

A participating employee working on an AbilityOne contract is an employee and the standards of all employment laws and Executive Orders apply to participating employees in the same manner as employees without disabilities. For example:

- 1) Anti-discrimination laws: ADA, Title VII, ADEA, GINA; EO 11246.
- 2) Labor laws: Wage and Hour; NLRA.
- 3) Health Standards: OSHA.
- 4) Benefits: Unemployment insurance, worker's compensation; ERISA.

The Commission is **not the agency that enforces these laws**. But an NPA must attest that participating employees are being treated the same as employees without disabilities for purposes of these laws.



# Upcoming 51.407: Inspection, Corrective Action, and Disqualification

## The proposed guidance will:

- Clarify the requirements of the CNA's inspections and corrective action processes for NPAs.
- Describe the process by which the Commission will review and monitor the CNA's inspections.
- Set forth a framework for escalating unresolved compliance issues.
- Establish a formal system for NPA probation, suspension, and disqualification.





# A New Strategic Direction

June 30, 2022: Commission issues Strategic Plan for FY 2022-2026

**Strategic Implementation Plan (SIP)** - a blueprint for achieving the objectives, goals, strategies, and performance measures in the strategic plan.

Key components:

- Prioritization of Objectives/Goals
- Establish Milestones
- Identify Resources
- Designate Responsibilities
- Establish Metrics and Dashboards
- Evaluate Success

Strategic Plan is a roadmap for accomplishing the Commission's priorities.



# Conclusion

**The New Strategic Direction Requires the Help and Engagement of All Stakeholders Who Care About the Employment of People Who Are Blind or Have Significant Disabilities.**



# Questions & Discussion